







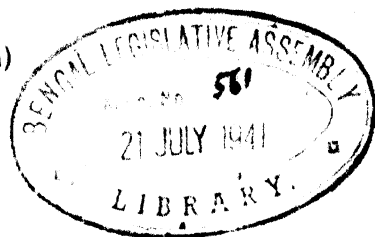




Government of Bengal

Department of Public Health and Local Self-Government

(Local Self-Government Branch)



Manual of  
Circulars and Orders relating to  
Local Bodies in Bengal

Volume I

*(Corrected up to 1938)*

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 Collier's Local Self-Government Manual, by W. S. Milne, 1917.  
 Collier's Municipal Handbook, by W. Egerton, 1916.  
 Corporation Handbook of By-Laws, Rules, etc.  
 Local Audit Manual.  
 Self-Government in Rural Bengal, by S. G. Hart, 1920 (2 Vols.).  
 Union Board Manual, Vol. I.





# **Department of Public Health and Local Self-Government.**

## **Accounts.**

### **Verification of Municipal Accounts.**

*Ben., Mun., Cir. No. 7M., of 7-2-1896, to Commrs.*

The Government of India having in 1894 directed that the figures of accounts incorporated in the Annual Report on Municipalities should in future be duly verified by the Account Department before publication, the divisional municipal accounts for the year 1894-95 were sent to the Accountant-General for this purpose. It was found, however, that considerable delay (in one case of more than ten weeks) occurred in reconciling discrepancies in the accounts in correspondence with the local officers, thus interfering with the punctual submission of the resolution on the Municipal Reports to the Government of India.

2. The Accountant-General, who has been consulted as to the best means of avoiding such delay in future, reports that a quarterly statement of the receipts and payments, with opening and closing balances of each Municipality, is sent regularly by his office by the 10th of the second month following the quarter, to the Treasury Officer for communication to the Municipality concerned. This report shows the balance as per accounts of the Accountant-General's office. It is suggested that if a note be added at the foot of this statement, making the closing balance as shown by the Municipality agree with that communicated by the Accountant-General, the District Officer would be in a position to see the two balances reconciled before sending the accounts to the Commissioner of the Division.

3. The Lieutenant-Governor approves of this suggestion and is pleased to direct that the following note be added at the foot of the account submitted by each Municipality with an asterisk against "closing balance":—

	Rs.
Balance as per annexed report of the Accountant-General, No. ...., dated .....	
Deduct amount of cheques drawn but uncashed at the Treasury .....	
Balance as per account .....	

4. His Honour also directs that the original report of the Accountant-General for the last quarter of the year be annexed to the annual accounts in Forms II and III, and that no amount be deducted from the closing balance shown in the report, except the value of cheques remaining uncashed on the last day of the year. If there be any other difference, the Magistrate should see that it is reconciled before submitting the accounts to the Commissioner of the Division.

## **Closing balances of Municipalities.**

*Ben., Mun., No. 200 T.—M. and Cir. No. 9 T.—M. of 16-5-1896, to Commrs.*

In order to secure that Municipalities should have in hand a reasonable working balance at the close of the year, the Accountant-General recommended—

- (1) that the probable collections, and not the demands, should be taken as the basis of the estimate of receipts in drawing up the budget, and
- (2) that the estimated collections of the general rate for one quarter should be regarded as a convenient standard for a reasonable working balance at the close of the year.

The opinion of all Commissioners of Divisions was invited on these suggestions, and they were asked to state the present practice in respect of both the points mentioned. From the replies received, it appears so far as point (1) is concerned that most of the Municipalities already base their estimates on the probable collections and not on the demand. This is correct, but the demand should also be shown. In regard to point (2), it appears that in each case the Municipal Commissioners are left to fix their closing balance, subject to revision by the Divisional Commissioner. In a matter of this kind no inflexible rule can be laid down, and the Lieutenant-Governor therefore desires that the Commissioner of the Division should fix the working and closing balance for each Municipality with reference to local circumstances and conditions, and in doing so should see that ordinarily not less than one-sixth of the aggregate expenditure on account of establishment and fixed monthly charges for the whole year, or the total average charges for two months, is kept in hand as the closing balance of a Municipality.

### **Meaning of the expression "minimum working balance."**

*Ben. Munpl. Nos. 216-20T.—M. of 3-10-1930, to Commrs.*

It has been brought to the notice of Government that several municipalities interpret the expression "minimum working balance" as used in the last paragraph of the note appended to rule 24 of the Model Municipal Account Rules as a balance of one-sixth of aggregate expenditure on account of establishment and other fixed monthly charges for the whole year, which should be maintained for the budget as a whole and also for each special fund, such as waterworks, latrines, etc., and enter on the credit side of the budget an item "opening balance" although there may be liabilities outstanding from the previous year, which are rarely shown in the budget, thus giving an entirely incorrect idea of the solvency of the fund concerned. I am to explain that the expression referred to is meant to be a cash reserve and not a true balance as obviously such a balance would be impossible when the municipality is, on comparison of its assets and liabilities, actually in debt. The intention, therefore, is that the municipality should have sufficient funds in the treasury or bank to enable it to pay

its staff and meet other recurring liabilities. To make this intention clear Government have been pleased to amend the last paragraph of the note referred to by substituting the words "cash reserve" for the expression "working balance" and I am to request that the municipalities in your Division (except the Howrah Municipality) may be informed accordingly.

( ) To the Commissioner of Burdwan only

### **Account instructions for District and Local Boards.**

*Beng. Mun., Cir. Nos. 138-142 L.S.-G. of 17-3-1919.*

I am directed to refer to the new account rules for District and Local Boards under clauses (v) and (vi) of section 138 of the Bengal Local Self-Government Act, 1885, published under Government Notification No. 2158 L.S.-G., dated the 5th September 1918.

2. When the revision of the rules was under consideration, Government were advised that some of the old account rules, as well as certain other rules which they proposed to issue, were *ultra vires* of the Local Self-Government Act, and could not therefore be issued as statutory rules. They contain important instructions for the guidance of District Boards, and it was therefore decided to issue them in the form of executive instructions. The instructions in question are appended to this letter, and I am to request that the District Boards in your divisions may be directed to observe them with effect from 1st April 1919.

3. I am to invite special attention to instructions (9) to (11) relating to the procedure which should regulate the modification of sanctioned budget estimates as laid down in rules 30, 32 and 33 of the new account rules. Three methods are laid down for altering the estimates, viz., (i) reappropriation, (ii) supplementary estimates, and (iii) revised estimates, each of which fulfils a different purpose. When the receipts have been correctly estimated, the only changes required in the budget are on the expenditure side, and these should be made by reappropriation. When the receipts have been under-estimated a supplementary budget is required to allow of the additional receipts being spent; and when the receipts have been over-estimated, a revised budget is required to prevent expenditure of the amount by which the receipts were under-estimated. In actual practice, however, the distinction between the three is not observed by District Boards, which do not make sufficient use of reappropriation and supplementary estimates. The revised budget is made to fulfil all three purposes, and it has become a regular practice to submit it each year towards the end of the period under budget in order to provide for actual expenditure, most of which has been already incurred. During the first part of the year deviations are made from the sanctioned estimate without the previous sanction of the Commissioner, as required by the rules, on the understanding that provision will be made for any excess in the revised budget, and when the budget is revised, wholesale alteration are made on both sides (receipts and expenditure) so as to wipe out all past irregularities. The instructions now issued are intended to put a stop to such irregular practices.

Copies have been forwarded to the Chairman of all District Boards direct.

### *Accounts Instructions.*

1. Payments from the district fund not authorized by law or competent authority shall be recovered as soon as they are discovered by the local auditor.

2. Copies of audit reports shall be forwarded by the Accountant-General, Bengal, to the Chairman of the District Board, through the Commissioner of the Division, when the District Magistrate is the Chairman of the Board, and through the District Magistrate and Commissioner when the District Magistrate is not the Chairman of the Board. The Chairman shall, as soon as possible after the receipt of the note, convene a special meeting of the Board to consider the objections and suggestions made by the Examiner and to decide upon the action to be taken in regard thereto. The Chairman shall be bound to remedy defects or irregularities that may be pointed out by the Examiner, and within three months of the date of the receipt of the report he shall submit a statement giving particulars of the action taken thereon to the Commissioner (through the District Magistrate, when the latter is not the Chairman of the Board), and the Commissioner shall forward the same with any remarks which he may consider necessary to the Accountant-General.

3. Whenever any loss of money by embezzlement, theft or otherwise, is discovered, the fact shall be promptly reported by the Chairman of the District Board to the Accountant-General, Local Audit Department, Bengal, and to the Commissioner of the Division through the District Magistrate. When the matter has been fully enquired into, he shall submit a further and complete report showing the total sum of money lost, the manner in which the money was lost, and the steps taken to recover the amount and punish the offenders, if any.

4. The Commissioner shall decide what constitutes the adequate closing balance referred to in rule 35 of the rules published under notification No. 2158 L.S.-G., dated the 5th September 1918, and his decision shall be final.

5. Possession of the pound, ferry or other property which is leased out for fixed amounts (see rule 36 of the rules published under notification No. 2158 L.S.-G., dated the 5th September 1918) shall not be given till the security deposit has been realized, and kabuliyat has been executed. When this has been done, the Vice-Chairman shall verify the correctness of the deposit and of the demand entered in columns 9 to 12 of the Register of rents (D. B. Form No. 4), place his initials in column 13 and order possession to be given.

6. If there is any loss owing to the resale of the pound, ferry or other property, it shall be realised from the former lessee.

\*7. No person may be permanently appointed to superior service without a certificate of physical fitness which shall be in the form shown below. This certificate shall ordinarily be given by the medical officer in charge of a civil station or other commissioned medical officer:

Provided that when the services of such officers are not available, the appointing authority may accept a certificate granted by a registered medical practitioner approved by the Chairman.

Provided further that—

- (1) in the case of a female candidate, the appointing authority may accept a certificate signed by any female medical practitioner; and
- (2) in the case of a candidate for appointment to a post on pay not exceeding fifty rupees, the appointing authority may accept a certificate signed by any officer irrespective of his medical qualifications.

No medical certificate is necessary upon a servant being promoted from inferior to superior service, whether the previous inferior service was qualifying or not.

*Form of certificate.*

I do hereby certify that I have examined A. B, a candidate for employment under the District Board of \_\_\_\_\_ and cannot discover that he has any disease, constitutional affection or bodily infirmity, except \_\_\_\_\_. I do not consider this a disqualification for employment in the office of the District Board. A. B's age is, accordingly to his own statement \_\_\_\_\_ years and by appearance \_\_\_\_\_ years.

8. . . . .

9. Reappropriation, supplementary estimates, and revised estimates shall be confined strictly to the purpose for which each is intended. Any increase under any head of expenditure or any modifications in the sanctioned estimate not immediately necessitated by an unexpected increase or falling off in receipts should be provided by reappropriation which should be the only ordinary means of modifying a sanctioned estimate. A supplementary budget shall be submitted only when additional receipts are anticipated, and it should show the amount on the receipt side and an equal amount on the expenditure side under the appropriate heads. In the case of a deficit in receipts, a revised budget shall be submitted showing the amount of deficit on the receipt side and an equivalent reduction on the expenditure side.

10. Application for sanction to reappropriation, supplementary estimates and revised estimates should be made as soon as the occasion arises. Expenditure before receipt of such sanction is prohibited.

11. Expenditure in excess of the sanctioned estimate without previous sanction shall be restricted to emergent cases and all such expenditure shall be reported to the Chairman, who shall place the matter before the next meeting of the Finance Committee and the District Board for sanction to reappropriation or supplementary budget as the case may be. The Commissioner should be informed of the fact as soon as the excess expenditure is incurred without waiting for the next meeting of the Finance Committee or the District Board.

*Ben., Mun., No. 3766 L.S.-G. of 10-11-1919, to Commr., Presdy.*

I am directed to refer to your letter No. 60 L.S.-G., dated the 15th August 1919, in which you enquire whether any instruction has been issued defining the relation between the District Magistrate and the non-official Chairman of a District Board in connection with the note on the audit of the District Board accounts.

2. In reply I am to invite attention to instruction 2 of the Account Instructions issued with Mr. O'Malley's circular No. 138-42 L.S.-G., dated the 17th March 1919, which requires that when the District Magistrate is not the Chairman, the Accountant-General's audit note shall be forwarded to the Chairman through the District Magistrate and the Commissioner, and that the Chairman shall submit his statement of the action taken thereon to the Accountant-General through the same channel. In transmitting the statement, the Magistrate need not make any remarks on it, as this would only cause unnecessary delay, and Government consider that it will be sufficient if only the Commissioner records his remarks. It is, however, reasonable that the statement should be submitted through the District Magistrate, just as the audit report is sent through him, so that he may be aware of the working of the District Board, the defects discovered and the action taken by the District Board to remedy them.

3. I am to request that a copy of this order may be communicated to all District Magistrates in your division in whose district the Chairman of the District Board is a non-official.

**Procedure regarding writing off money from the accounts of district boards.**

*Ben. L.S.-G., No. 1766 L.S.-G. of 7-7-1938, to Commr., Chittagong.*

With reference to your letter No. 3872 G., dated the 1st June 1938, I am directed to say that rule 21 of the Local Self-Government Account Rules which authorises district boards to write off from their accounts money lost by theft, fraud or otherwise cannot be held to apply to the case of money due to a district board for pound and ferry rents, etc., which it has failed to recover inasmuch as money which has never been received by the board or on behalf of the board cannot be said to be lost. Rule 21 of the Local Self-Government Account Rules is, therefore, quite distinct from rule 46 which authorises the district board at a meeting to write off the irrecoverable arrears of pound and ferry rents. The two rules therefore neither clash nor are inconsistent with each other. I am to request that the district boards in your Division may be informed accordingly.

*Memo. Nos. 1767-1770 L.S.-G., dated the 7th July 1938.*

Copy forwarded to other Commissioners of Divisions for information and future guidance.

## Addresses.

### Addresses to His Excellency the Governor of Bengal by local bodies.

*Ben., L.S.G., Nos. 79-83 L.S.-G. of 7-1-1924. to Commrs.*

As considerable misapprehension appears to exist on the subject of the right of a local body to present an address to His Excellency the Governor on the occasion of his visit to a district, Government (Ministry of Local Self-Government) are of opinion that the time is ripe for an authoritative pronouncement of the whole subject of the presentation of such addresses and of the attitude of Government in the matter.

2. The custom of presenting addresses by local bodies to the head of the Provincial Government is one of long standing. Apart from the formality of courteous expressions of welcome, which it is customary with local bodies to insert in their addresses, the latter have a distinct value as a medium for bringing the head of the Government into direct personal touch with local bodies and with the problems which confront them in their work. Important matters affecting local needs are, in an address, presented in prominent relief before the head of the Provincial Government and a periodical opportunity is thus afforded to local bodies of focussing attention on matters involving doubt or difficulty with the result that the latter are on these occasions subjected to an immediate and direct examination by Government, and decisions are reached and action set on foot without the delay which would otherwise be involved in course of the ordinary channel of official correspondence. The custom of presenting such addresses thus secures an unquestionable advantage to the local bodies in each district and to the cause of local self-government in the province.

3. Doubt has recently been expressed in one case on the legality of local bodies presenting an address to His Excellency the Governor and a motion for the presentation of an address is reported to have been ruled out as being illegal and out of order. Government have taken legal opinion in the matter and are advised that there is no illegality in a local body deciding that matters affecting its administration or falling within its scope should be placed before the Governor of the Province through the medium of an address; nor can the motion for the presentation of such address be rightly disallowed as being illegal or out of order.

4. Although there is no special provision in the Bengal Municipal Act or in the Bengal Local Self-Government Act for the presentation of such addresses, it is obvious from the general scheme of local self-government affecting both district boards and municipalities that these local bodies are in various matters subject to the constitutional control and direction of His Excellency the Governor acting with the Minister-in-charge of Local Self-Government, and it is, therefore, not only proper but necessary that they should be afforded facilities to approach His Excellency, when occasion arises, to represent matters falling within their scope; and although the exact manner in which such approach is to be effected is nowhere expressly laid down, it is to be presumed that local bodies have an inherent right, if they so desire, to approach His Excellency, among other means, through the medium of an address. The presentation of an



address should therefore be regarded as the voluntary exercise of a constitutional right and not as a duty which a local body is obliged to perform.

5. With regard to the legality of the expenditure incurred from the funds of local bodies on such occasions, Government are advised that it being within the competency of the district boards and municipalities to present addresses to His Excellency the Governor on the occasion of his visit to a district, the necessary and incidental expenses in connection with the presentation of such addresses (e.g., cost of printing the address, cost of paper) are legitimate charges against the funds of municipalities and district boards under clause XVII of section 69 of the Bengal Municipal Act and clause *fifthly* (III) of section 53 of the Local Self-Government Act, respectively.

6. While, however, there is no objection to such absolutely necessary and incidental expenses in connection with the presentation of addresses to His Excellency the Governor being met from the funds of local bodies, Government (Ministry of Local Self-Government) desire it to be clearly understood that they strongly deprecate all superfluous expenditure on such occasions. In circular No. 14M.,\* dated the 13th March 1892, to the Commissioners of Divisions, it was laid down that expenditure from the municipal fund in procuring a casket containing an address presented to His Honour the Lieutenant-Governor was inadmissible and that such expenditure, if incurred at all, should be met by voluntary subscriptions. Similarly, expenditure from district funds for such purposes, viz., purchase of caskets, has been disallowed by Government from time to time.

7. Subject to the above restriction Government (Ministry of Local Self-Government) would leave local bodies unfettered to exercise their legitimate and time-honoured right to present addresses to His Excellency the Governor with a view to bring local needs and local grievances to his notice in the course of his tour in the districts. I am to request that municipalities and district boards in your division may be informed accordingly and that copies of the circular may be sent to District Magistrates and Subdivisional Officers.

*Memo. No. 84L.S.-G., dated the 7th January 1924.*

Copy forwarded to the Accountant-General, Bengal, for information.

#### **Addresses to Hon'ble Ministers by local bodies.**

*Ben. Mun., Cir. No. 4454M. of 20-7-1937, to Commr., Presidency.*

I am directed to refer to your letter No. 1752M., dated the 29th August 1936, regarding an expenditure of Rs. 48-1-9 incurred by the Santipur municipality in presenting addresses to the Hon'ble Ministers in charge of Agriculture and Industries and of Education Departments in connection with their visits to Santipur. As in your opinion the expenditure on this account from the municipal fund is not free from doubt you ask for an authoritative decision of Government in the matter.

2. In reply I am to say that Government are advised that the presentation of addresses to Hon'ble Ministers will be for an object coming within section 108 (xxvii) of the Bengal Municipal Act, 1932, and any expenditure incurred on this account will, subject to the sanction of the Local Government, be properly debitable to the municipal fund. [The sanction of Government is, therefore, accorded to the expenditure of Rs. 48-1-9 incurred by the Santipur municipality in the district of Nadia in presenting addresses to the Hon'ble Ministers in charge of Agriculture and Industries and of Education on the occasion of their visits to Santipur.]

3. I am to add that Government are further advised that necessary and incidental expenses in connection with the presentation of such addresses by a district board are also legitimate charges against the district fund under clause fifthly (v) of section 53 of the Local Self-Government Act, 1885.

4. The Accountant-General, Bengal, has been informed.

*Memo. No. 4455M., dated the 20th July 1937.*

Copy forwarded to the Accountant-General, Bengal, for information.

*Memo. Nos. 4456-4459M., dated the 20th July 1937.*

Copy forwarded to the Commissioners of the Burdwan, Dacca, Rajshahi, and Chittagong Divisions for information and communication to municipalities and district boards in their divisions.

## Advances.

### Building advances to Municipal employees are illegal.

*Ben. Mun. Cir. No. 387.—M. of 6-10-1904, to Commr.*

The Government circulated the following opinion of the Legal Remembrancer, dated the 24th September 1904, to the effect that advances for the purpose of building houses cannot legally be granted to Municipal employees from the Municipal Fund, and requested that attention of Municipalities may be drawn to the fact that such advances are illegal:—

#### *Opinion.*

In my opinion such advances are outside the scope of the Municipal Act and not authorized by sections 68 and 69 of Act III (B.C.) of 1884 or by any other section of the Act. In this view such advances are not legal.

### Legality of the payment of motor car advance to District Board employees from the District Fund.

*Ben. L.S.-G., No. 2680L.S.-G., of 26-9-1938, to Commr., Burdwan.*

I am directed to refer to your memorandum No. 1978L.S.-G., dated the 31st August 1937, regarding the proposed payment of an advance

of Rs. 1,800 to the District Engineer, Howrah, for the purchase of a motor-car. The Chairman of the Howrah district board doubts the admissibility of such expenditure from the district fund, inasmuch as clause fifthly (b) of section 53 of the Local Self-Government Act, 1885, provides for the payment of house building advances only to the employees of district boards and article 156 of the Civil Account Code, Volume I, under which the payment of such advances is permissible would be inapplicable under rule 9 of the Local Self-Government Account Rules, which requires that the district board should follow such provisions of the Civil Account Code as are consistent with the provisions of the Local Self-Government Act, 1885 or the rules framed thereunder. As the Chairman has asked for an authoritative opinion of Government in the matter, you refer it to Government for orders.

In reply I am to state that Government have taken the legal opinion in the matter and are advised that article 156 of the Civil Account Code, Volume I, which permits motor-car advances to be paid to Government officers does not apply to the employees of district boards, as it is inconsistent with the provisions of the Local Self-Government Act and the rules framed thereunder which make no provision whatsoever for the payment of any advance other than house-building advance and that expenditure from the district fund for the payment of a motor-car advance is illegal.

I am to say that Government agree with the view stated above and I am to request that the Chairman of the Howrah district board may be informed accordingly.

*Memo. Nos. 2681-2684 L.S.-G., dated Calcutta, the 26th September 1938.*

Copy forwarded to other Commissioners of Divisions for information and future guidance.

## Allowances.

**Delegation of powers under article 161, Civil Service Regulations, to Divisional Commissioners regarding the grant of charge allowance to local fund employees.**

*Bcn., Mun., L. S.-G. Nos. 693-97 L. S.-G. of 14-3-1917.*

I am directed to observe that in the absence of any provision to the contrary either in the Local Self-Government Act or in the Bengal Municipal Act, or in the rules made thereunder, cases in which charge allowances are granted to employees paid from local funds to discharge the duties of two officers are governed by article 161, Civil Service Regulations. As Government has not delegated its powers under this article, such cases should come up to Government for sanction. In the case of employees of District and Municipal Boards, the practice, however, is for the audit officer to obtain the sanction of the Commissioners of Divisions, as they approve and finally pass

the budgets of the local bodies. Government desire that this practice should be continued, and they therefore authorize you to exercise the powers of the local Government under article 161, Civil Service Regulations, in respect of such employés.

## Appeals.

### Appeals to which a Municipality is a party, preferred to the Privy Council.

*India, Home, Nos. 1276-82 of 9-9-1889, Ben., Jud., Cir. No. J. 4-A—124 of 8-11-1889, to all Offrs. Ben., Mun., Cir. No. M. 3-M—5-5 of 22-8-1890, to Commrs.*

With reference to the correspondence ending with Home Department Endorsement No. 22—1431-38, dated 24th August 1887, I am directed to point out that when an appeal, to which a Municipality is a party, is preferred to the Privy Council, the duty of making arrangements for the conduct of the case must be undertaken by the Municipality concerned: and that the information and papers required by Home Department letter No. 1—121-26, dated 30th January 1878, should be forwarded to the Ladia Office through the Government of India only in cases to which the Government or the Court of Wards is a party. In this connection I am to request that the instructions contained in the accompanying extract of a Despatch from the Secretary of State may be strictly observed in cases to which Government or the Court of Wards is a party.

*Extract No. 21 (Judicial), dated the 4th July 1890, from the Secretary for India.*

With reference to the letter of your Excellency in Council, No. 19, dated the 14th of May, transmitting a Special Narrative submitted by the Government of Bengal, and other papers relating to the case (Maharaja Luchmeswar Singh Bahadur of Darbhanga, appellant, versus the Chairman of the Darbhanga Municipality, respondent), which is now pending in appeal before the Privy Council, I have to request that I may be furnished with full and distinct particulars as to the object with which these documents have been transmitted, and the steps which you expect or wish me to take regarding them.

2. I observe that the Darbhanga Municipality are the respondents, the suit being (in accordance with the provisions of section 29 of the Bengal Council's Act, III of 1884) brought against them as a body corporate, by the description of "the Chairman of the Municipal Commissioners of Darbhanga."

3. That being so, it is prima facie the business of the Municipality to conduct the litigation and to bear the costs attendant on it. From the terms of your Government's letter now under reply, it seems probable that your intention is that the matter shall be treated as if Government were the respondent. If such, however, be your intention, I desire that I may be fully informed, as soon as possible, of the reasons

for adopting such a course, and also whether you think it necessary to forward an authority from the Municipal Board to enter an appearance on its behalf.

4. I avail myself of this opportunity to request that; as regards *all* appeals to Her Majesty in Council, in which Government is interested, I may in each case be furnished with a distinct expression of the opinion of the Government transmitting the papers, as to the course which ought to be adopted by me. It not unfrequently happens (as it has happened in this case of the Maharaja of Darbhanga) that the papers reach this office unaccompanied by any clear indication of the steps which it is desired I should take, and it is necessary that I should always receive such an indication for my assistance in arriving at a decision in the matter.

## Appointments.

### Circle officers should not be appointed Municipal Commissioners.

*Ben., Mun., No. 429T.—M. of 12-8-1916, to Commr., Presdy.*

I am directed to refer to your letter No. 84M., dated 23rd June 1916, recommending four gentlemen for appointment as Commissioners of the Debhatta Municipality under section 14 of the Bengal Municipal Act. You also recommend, at the instance of the District Magistrate of Khulna, that Babu Pramatha Nath Chatterji, Circle Officer of Satkhira, be appointed as a Commissioner of the municipality under section 16 of the Act.

2. In reply, I am to say that the Governor in Council considers that, as a matter of principle, Circle Officers should not be appointed Municipal Commissioners. Apart from the fact that municipalities are outside their jurisdiction, they are expected to spend the greater part of their time on tour, and it is desirable that they should not be given any excuse for staying in municipal towns. I am, therefore, to request that another gentleman may be nominated in his place.

### Appointment of Civil Surgeons as Commissioners of Municipalities.

*Ben., Mun., No. M. 6-A—1-2 of 13-4-1889, to Commr., Chittagong.*

On a reference made by the Commissioner of Chittagong, the Government decided that it is most desirable that the Civil Surgeon of a district should be a member of the Municipal Committee at headquarters, and, if possible, of all important Municipalities in the interior of the district. Municipal duties are among the most important responsibilities imposed upon a Civil Surgeon, and he cannot refuse to undertake them any more than he could refuse to supervise a dispensary. It is expected of him that he should take an active part in the proceedings of municipal bodies, especially in the furtherance of sanitation.

**Resignation of his appointment by an ex-officio Chairman of a Municipality.**

*Ben., Mun., No. 3339M. and Cir. No. 26M. of 20-12-1901, to Comms.*

I am directed to acknowledge the receipt of your letter No. 4030G., dated the 28th September 1901, recommending that the resignation tendered by—Subdivisional Officer of—of his appointment as *ex-officio* Chairman of the—Municipality may be accepted.

2. In reply, I am to point out that an officer appointed by official designation to be Chairman continues to occupy that post from the date of his appointment up to the date of the reconstitution of the body of Municipal Commissioners, irrespective of intermediate changes in the *personnel* of the officer appointed *ex-officio*. The resignation of each individual officer on the occasion of a transfer is therefore unnecessary.

**Nomination of ministerial officers for appointment as Municipal Commissioners or as members of District and Local Boards.**

*Ben., Mun., Cir. No. 11 T.—M. of 27-10-1916.*

I am directed to refer to Appointment Department Circular No. 3384-3438A., dated the 8th May 1916, in which it was stated that before ministerial officers stand for election to local bodies, they should be required to obtain the permission of the head of the office in which they serve. I am now to request that the following instructions may be observed in the case of nominations of ministerial officers for appointment as Municipal Commissioners or as members of District and Local Boards.

2. It is the desire of Government that ministerial officers serving in Government offices should not be debarred from appointment to Municipal Committees, District and Local Boards, when better men are not available. They should, however, not be nominated without the previous permission of the heads of the offices in which they serve.

3. No ministerial officers, whether in Government service or in private employment, should be nominated if any of their superior officers are nominated for appointment to a local body; for instance, a mill manager and his clerk should not be nominated at the same time. Government further consider it desirable to lay down that no ministerial officer in Government service who, in his official capacity, has in any way to deal with the affairs of a municipality should be nominated for appointment as a Commissioner of that Municipality.

**Chaukidari Circle Officers and Circle Officers under the Village Self-Government Act may be appointed as members of Local Boards.**

*Ben., L. S.-G., Nos. 1741-45 L. S.-G. of 8-4-1922, to Comms.*

With reference to your letter No. 232 L. S.-G., dated the 21st December 1921, I am directed to say that Government have no objection

to Chaukidari Circle Officers as well as Circle Officers under the Village Self-Government Act being appointed as members of Local Boards. Under Government Circular No. 2108-2112 L. S.-G., dated the 16th April 1921, such officers are not, however, eligible for election as Chairmen of those Boards. I am further to say that in appointing them to Local Boards, the desirability of not interfering with their ordinary duties should be considered.

**A local board member, who has once resigned, cannot be re-appointed during the term of office of the local board.**

*Ben., L.S.-G., No. 101T.—L.S.-G. of 23-4-1926, to Commr., Rajshahi.*

I am directed to refer to your letter No. 710M., dated the 20th March 1926, enquiring whether Government have any objection to the re-appointment of Mr. G. McIntosh as a member of the Alipur Duar Local Board.

2. In reply I am to say that Government have no objection to this appointment on personal grounds, but are advised that a member who has once resigned cannot be re-appointed during the term of office of the same Local Board. Section 19, sub-section (2) of the Local Self-Government Act, contains the words "the Commissioner may appoint a new member," and under rule 63 of the rules for election of District Board a vacancy is to be filled by the appointment of "another person." In the circumstances, it will be necessary to appoint some one else as a member of the Alipur Duar Local Board.

**Reduction of the pay of an appointment is not (legally) tantamount to its abolition.**

*Ben., L. S.-G., Nos. 768-72 L. S.-G. of 4-3-1925, to Commrs.*

I am directed to refer to Mr. O'Malley's letter Nos. 3664-68 L. S.-G., dated the 11th August 1921, in which it was stated that an alteration in the pay of an appointment is tantamount to the abolition of the existing appointment and the creation of a new one, and that any such alteration in the pay of an appointment on Rs. 100 per month or more would, under section 33 of the Local Self-Government Act, require the approval of the Commissioner. In issuing the above order, Government were guided by the opinion of the Accountant-General, Bengal. A doubt having arisen as to the validity of the order, the matter was referred to the Legal Remembrancer, who holds that although for the purposes of audit a post might be said to be abolished and another post created when the salary attached to the post is changed, it would be straining the language of the law to hold that the reduction of the scale of pay of any post is legally equivalent to its abolition. The Government of Bengal (Local Self-Government Department) accept the Legal Remembrancer's opinion, and I am to request that the District Boards in your division may be informed accordingly.

**Information to be furnished in connection with appointment of municipal commissioners.**

*Ben., Mun., Cir. Nos. 3295-3299M., the 4th May 1933, to Commrs.*

I am directed to invite your attention to the provisions of section 16 (3) of the Bengal Municipal Act, 1932, and to request that in submitting your recommendations for appointment of commissioners of municipalities in your division, you will be so good as to report in each case whether the gentlemen, other than officials, nominated by you are qualified for election as municipal commissioners.

**Principles to be followed in making nominations for appointments of municipal commissioners belonging to different communities.**

*Ben., Mun., Order No. 2803M. of 5th April 1933, to Commr., Burdwan.*

With reference to your memoranda No. 351M., dated the 4th March 1933, and No. 325C., dated the 29th March 1933, about nominations to municipal boards, I am directed to say that the object of these nominations hitherto has, as stated in paragraph 2 of circular No. 2T.—M., dated the 2nd August 1912, been "to correct possible inequalities in the operation of the elective system and to provide a necessary element of official experience in the Corporation." Steps were taken in the past for the representation of Hindus and Muhammadans in proportion to the population and number of voters of and rates paid by each community. Section 19 of the Bengal Municipal Act, 1932, now provides for the representation of a minority community within a municipality by reserving elected seats for it in accordance with the proportion borne by such community to the total population of the municipality. There appears therefore no necessity at present for making nominations on a communal basis in those municipalities in which seats have been reserved under section 19 for a Hindu or Muhammadan minority. The general principle which should henceforth be followed in making nominations is to secure association in municipal administration of officials and other persons specially fitted for appointment as commissioners and to secure the representation, wherever possible, of other minorities of importance, e.g., depressed and labouring classes, who have not been able to secure representation by election, regard being had to proviso (3) of section 16 of the Act.

I am to request that the local officers may be instructed to keep these points in view in submitting their nominations in future. There is, however, no intention to prevent representation of other interests by nomination if special reasons justify it.

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*Memo. Nos. 2804-2807M. of 5-4-1933.*

Copy forwarded to all Commissioners of Divisions for information and necessary action.



**Desirability of appointing the Superintendent of Police as a member of a local body.**

*Ben., Mun., Cir. Nos. 5291-5295M. of 19-11-1934, to Comms.*

I am directed to invite a reference to this department circular No. 31L.S.-G., dated the 11th November 1905, in which it was stated that whenever the reconstitution of a local body came under consideration, the desirability of appointing the District Superintendent of Police as a member thereof should receive careful consideration in each case. This decision was arrived at on the ground that the association of the Superintendents of Police with respectable members of the Indian community was then considered desirable for the facility of their own work and also in the interest of the administration of local bodies.

2. Government are, however, of opinion there are now other means, not so expensive in time, for the Superintendent of Police to get into touch with local non-officials and consider that as a general rule there is no longer any justification for the appointment of the Superintendent of Police on local bodies as a matter of general policy.

3. The Ministry of Local Self-Government are, therefore, pleased to direct in modification of this department circular No. 31L.S.-G., dated the 11th November 1905, that District Superintendents of Police need not in future be appointed as members of local bodies, as a matter of course, unless their appointment is considered to be necessary in any particular case for very special reasons.

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*Memo. No. 5296M. of 19-11-1934.*

Copy<sup>2</sup> forwarded to the Political Department of this Government, for information.

**Appointment of Government Officers as polling officers at Municipal Election.**

*Ben., Mun., Cir. Nos. 924-27M. of 1-3-1934, to Comms.*

A question having arisen as to whether Government officers should, as a general rule, be allowed to be appointed as polling officers at municipal elections I am directed to communicate the following observations of Government on the subject:—

If Government officers are allowed to be appointed by municipalities as polling officers without being under the District Magistrate's control, they will almost certainly be required to appear frequently as witnesses in election disputes before District Judges and this would cause needless expenditure of public funds and diversion of the time of the officers from their legitimate duties.

It has been suggested that the appointment of Government servants as polling officers would help in preserving order at polling stations. I am to point out, however, that such officers would only be able to maintain order within the polling stations but would be of no use for this purpose outside; on the other hand there would be every likelihood of their becoming embroiled in criminal and civil cases. If the

District Magistrate anticipates disturbance of any kind at the polling stations, he would no doubt make adequate police arrangements of a preventive character and take such other action under the law as he may consider necessary.

Government have, therefore, decided that as a rule no Government officers should be appointed as polling officers at municipal elections, but the municipalities should be advised to select polling officers from among the members of the educated public of the locality. It is only when the local Government direct that the conduct of elections shall be under the direct control of the District Magistrate under draft rule 43 of the Election Rules, 1933, that Government will agree to their officers being appointed as polling officers.

I am to request that the above orders may be communicated to all District Magistrates in your division.

### **Appointment of an officer to start the Bratachari Movement.**

*Ben., L.S.-G., Order No. 2372 L.S.-G. of 15-4-1936, to Rajshahi Commr.*

I am directed to refer to your letter No. 3623M., dated the 24th September 1935, forwarding a copy of a resolution of the Jalpaiguri District Board proposing to appoint an officer for starting the Bratachari movement in the district. As you are doubtful whether the resolution would come within the purview of sections 62 to 65B read with section 33 of the Local Self-Government Act you refer the matter for an authoritative decision of Government.

2. In reply I am to state that the Bratachari movement is regarded not only as an important adjunct to the educational system of the province but is also calculated to improve the physical and moral condition not merely of students but also of the general public participating in the movement. Its scope also extends to various forms of village welfare work including the clearing of tanks, destruction of water-hyacinth and other forms of noxious vegetation, pursuit of crafts and industries, etc. The Director of Public Health considers that the Bratachari movement is calculated to promote the health of the people of the province.

In the circumstances Government are of opinion that instead of appointing an officer to start the Bratachari movement in the district, it would be more appropriate if the district board makes a suitable grant-in-aid towards the work of Bratachari societies within the district. Under section 100 (4) of the Local Self-Government Act, it is open to a district board to contribute towards the work of such a society with the approval of the Commissioner of the Division.

The Chairman of the Jalpaiguri District Board may be informed accordingly.

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*Memo. Nos. 2373-2376 L.S.-G., dated the 15th April 1936.*

Copy forwarded to all Commissioners of Divisions (except Rajshahi), for information and guidance.

## Assessors.

### Appointment of Assessors.

*Ben. Mun., Cir. No. 310M. of 16-1-37, to Commr., Dacca.*

With reference to your letter No. 6656J., dated the 17th December 1936, regarding the proposed appointment, under section 145(3) of the Bengal Municipal Act, 1932, of Babu Akshoy Kumar Chakrabarty, as an assessor for the revision of assessment of the Dacca municipality on a remuneration of Rs. 500 per mensem for eight months, I am directed to say that sanction of the Local Government should have been obtained and should now be obtained to the appointment. As the powers under section 66 (2) of the Bengal Municipal Act have not been delegated to the Commissioner, the appointment under section 145(3) of the Act is subject to the above proviso.

*Memo. Nos. 311-14M., dated the 16th January 1937.*

Copy forwarded to all Commissioners of Divisions (except Dacca) for information and guidance.

## Assessment.

### Assessment of several houses within one compound as separate holdings.

*Ben., Mun., Cir., No. 6T.—M. of 29-4-1904, to Commrs. Legal Rembr.  
No. 29 of 7-4-1904, to Govt.*

The Government of Bengal circulated the following opinion of the Legal Remembrancer regarding the legality of treating several houses within one compound as separate holdings for the purpose of assessment under the Bengal Municipal Act:—

#### *Opinion.*

With reference to your letter No. 1611M. of the 16th ultimo, requesting my opinion as to the legality or otherwise of treating as separate holdings, for the purpose of assessment under the Bengal Municipal Act, several houses within one compound, I have the honour to say that if the three buildings are distinct and form separate dwelling houses intended or suited for different occupants, there is no legal objection to their being treated as different holdings, provided the owner divides the compound into parts by metes and bounds and assigns to each house a separate compound which will thus have a separate set of boundaries.

**Court Buildings liable to assessment to latrine tax.**

*Ben., Mun., No. 1856M. of 20-4-1900, to Commr., Patna.*

I am directed to acknowledge the receipt of your letter No. 194G., dated the 21st March 1900, and enclosure, regarding an objection raised by the District Judge of Muzaffarpur to the payment of the latrine tax levied by the Muzaffarpur Municipality, under section 321 of the Bengal Municipal Act, on the Civil Court buildings at that station.

2. In reply, I am directed to forward, for your information, a copy\* of a letter from the Legal Remembrancer, No. 1360, dated the 6th November 1897, in which that officer advised, with reference to a similar objection raised by the District Judge of Pabna, that Court buildings are liable to assessment to the tax referred to. The present Legal Remembrancer, who was consulted in the matter, also thinks that reading sections 321, 325 and 334A of the Act together, there can be no reasonable doubt that the tax is leviable on Court buildings. The Lieutenant-Governor agrees in this view, and directs that the tax imposed on the Civil Court buildings at Muzaffarpur should be paid.

**Assessment of latrine rate cannot be fixed at one rate for one class of owners and at another rate for another class.**

*Ben., L. S.-G., No. 2796-2800M. of 20-8-1923, to Commr.*

I am directed to refer to your letter No. 2136J., dated the 16th May 1923, regarding the revision of latrine rate within the Netrakona Municipality.

2. At their meeting held on the 11th April 1923 the Municipal Commissioners of Netrakona passed the following resolution:—

“Resolved that the rate of latrine tax be reduced from 7½ per cent. to 6½ per cent. on annual valuation of all holdings except Government and other public buildings including railway buildings which would continue to be assessed as before with effect from 1st April 1923.”

You hold that the resolution is *ultra vires* of section 321 of the Bengal Municipal Act inasmuch as this section only enables the Municipal Commissioners, for the purpose of levying latrine rate, to differentiate between one holding and another only with reference to its annual value and does not authorize them to fix one rate for one class of owners and another rate for another class. As, however, the local Government pleader is of opinion that the resolution is within the powers of the Municipal Commissioners, you submit the case for the orders of Government.

3. The question was referred to the law officer of Government and in forwarding herewith a copy of the Legal Remembrancer's opinion, I am to say that Government (Ministry of Local Self-Government)

consider that the resolution of the Municipal Commissioners is *ultra vires*. I am therefore to suggest that you should take action under section 63 of the Bengal Municipal Act.

*Opinion.*

There can be one scale, for holdings under section 321, for the latrine fee. If the municipality find that they are out of pocket in respect of Government buildings and by the public generally, their proper course is to proceed under section 326 and fix a fee or compound under section 325. I can find no authority for the Government Pleader's opinion.

*Note.*—See orders Nos. 1674 and 1675, for other orders regarding the latrine tax.

**The maximum limit of latrine fees under section 321, Municipal Act, 1884, is not applicable to the rate per head under section 326.**

*Gen., Mun., No. 3130 and Cir. No. 44M. of 2-12-1905, to Commrs.*

In December 1903 the Government of Bengal circulated the following opinion recorded by the Legal Remembrancer on the question whether the maximum limit of latrine-fees prescribed under section 321 of the Bengal Municipal Act, III of 1884, is applicable to the rate per head leviable under section 326 of the Act:—

*Opinion.*

In my opinion the maximum limit of latrine-fees leviable from holdings under section 321 of Act III (B.C.) of 1884, is not applicable to the rate per head leviable under section 326.

**Assessment of Railways by Municipalities.**

*Ben., Mun., Cir. 5T.—M. of 26-6-1916, to Commrs.*

I am directed to address you on the subject of the liability of railway administrations to municipal rates and taxes.

2. Under section 135 of the Indian Railways Act (Act IX of 1890) a railway administration is not liable to pay any taxes to a municipality unless its liability is declared by a notification of the Governor-General in Council published in the official gazette. It has been ruled that the liability of the railway to payment of taxes takes effect from the date of the notification, and that retrospective effect cannot be given to this notification. Applications for the publication of a notification are

generally submitted either when a new tax is imposed by a municipality or when a railway acquires within the municipal boundaries taxable property of a different description from that covered by notifications already in force. On the receipt of such an application, the local Government has to consult the railway concerned and to make reference to the Government of India if it appears that the railway is liable to the tax. Consequently, some time is bound to elapse between the date on which the municipality applies for the issue of a notification declaring the liability of a railway and the date on which the notification is published. The result is that, although the circumstances which justify the issue of such a notification may have existed from a prior date, the municipality is not in a position to realize sums which would have been due from the railway if the notification has issued earlier. In a recent case a period of over one year elapsed between the imposition of a water-rate in a municipality and the issue of a notification declaring the liability of the railway to payment of this rate, and the amount claimed by the municipality on account of the intervening period exceeded Rs. 1,000, which could not be realized in the ordinary course of law.

3. The Government of India have pointed out that there appears to be no reason why the liability of a railway administration to taxation should not be declared as soon as all the relevant facts connected with the proposed taxation are known and before the actual imposition of the tax. It rests accordingly with municipalities, in cases where new taxation is contemplated affecting railway holdings, to acquaint Government at the earliest possible moment with all relevant facts in regard to the proposed taxation, in order that Government, should it decide to support the application, may be in a position to move the Government of India for the issue of a notification before the tax is actually imposed.

4. I am to request that these instructions may be communicated to all municipalities in your Division, and that they may receive the special attention of those municipalities in which the imposition of a water-rate, or the extension to fresh areas of the provisions of Part IX of the Bengal Municipal Act, or other measures involving fresh taxation are contemplated in the near future.

#### **Assessment and collection of union rate.**

*Ben., L.S.-G., Cir. Nos. 4296-4300 L.S.-G. of 17-7-1935, to Commsrs.*

I am directed to invite a reference to the correspondence resting with your letter No. (1) 499 L.S.-G., dated the 6th March 1935, (2) 832 L.S.-G., dated the 23rd April 1935, (3) 1321 J., dated the 18th March 1935, (4) 1053 G., dated the 26th February 1935, and (5) 2909 M., dated the 18th September 1934, regarding introduction of a register for keeping a stock account and issue of receipt books for the collection of union rates and to say that after careful consideration of the views of the officers consulted the Government of Bengal (Ministry of Local Self-Government) are pleased to make the following addition to the note appended to rule 17 of the rules regarding assessment and collection of union

rates published under notification No. 1998L.S.-G., dated the 3rd July 1920, as subsequently amended:—

An account of the books issued shall be kept in the following form:—

Serial number of books obtained for the year.	Contains receipts numbered to	Date of issue.	Signature of President issuing the book.	Signature of collecting agent receiving the book.	Date of return of counter-folls.	Signature of collecting agent.	Signature of President.	Remarks.
I ..	1—100							
II ..	101—200							
III ..	Etc							
IV ..								
Etc. ..								

**Assessment with effect from any quarter of the year.**

*Ben., Mun., Order No. 5405M. of 16-9-1935. to Commr., Burdwan.*

I am directed to refer to your memorandum No. 457M., dated the 19th March 1935, on the question whether the revised assessment under section 137 of the Bengal Municipal Act, 1932, can, in view of the provisions of section 135 of the Act, be given effect to with effect from any quarter of the year other than the first.

2. In reply, I am to say that Government are advised that the point turns on the interpretation of the first proviso to section 135, and there is no apparent reason to limit that interpretation. Section 135 means that the rate shall be levied and fixed ordinarily from 1st April to 31st March, but that its start, whether made in the first quarter or in any subsequent quarter, may be from the beginning of the next quarter after the municipal commissioners fix the rate. The principles governing fixing of a rate once started are quite different from those governing its first inauguration whenever that may be. I am to add that the Government of Bengal (Ministry of Local Self-Government) agree with the above view.

The municipal commissioners in your division may be informed accordingly.

*Memo. Nos. 5406-5409M., dated the 16-9-1935.*

Copy forwarded to all Commissioners of Divisions (except Burdwan) for information and communication to the municipal commissioners in their respective divisions.

**Question whether Municipal Commissioners have power to wait indefinitely before making assessment of holdings.**

*Ben., Mun., order No. 1948M. of 9-3-1935, to Commr., Burdwan.*

I am directed to refer to your memorandum No. 47M., dated the 11th January 1935, regarding suspension of resolution No. 11 passed by the commissioners of the Asansol Municipality.

2. Under the Bengal Municipal Act of 1932, places used for public worship or for charitable purposes are not exempt from the water, lighting and conservancy rates imposed under sections 125 and 126 except in so far as section 126 (3) may apply. The commissioners of the Asansol Municipality were accordingly asked to assess water, lighting and conservancy rates on holdings used as places of worship or for purposes of charity within the municipality. They, however, passed a resolution to the effect that the matter be held over till the neighbouring municipalities, such as Burdwan and Raniganj, have taken it up. As in your opinion this action of the municipal commissioners was in excess of the power conferred by law you suspended the execution of the above resolution under section 548 (2) of the Bengal Municipal Act, 1932.

3. Government have taken legal opinion in the matter and are advised that as section 136 of the Act does not empower the municipal commissioners to wait indefinitely before making assessment of holdings their action was in excess of the power conferred by law. They are, therefore, pleased to direct under section 548 (3) of the Act that your order suspending the execution of the resolution should continue in force permanently.

**Procedure to be followed when a municipal assessment is questioned.**

*Ben., Mun., Cir. No. 4359M. of 14-5-1936, to Commr., Burdwan.*

I am directed to refer to your letter No. 298M., dated the 28th February 1936, and its enclosures in which you request that Government may be pleased to give an authoritative decision on the point whether the power conferred on the municipal commissioners under section 138 (1) (c) is in any way restricted by section 149 of the Act.

2. In reply, I am to say that Government are advised that section 138 must be read along with section 149. When an assessment list is prepared, if the valuation or assessment is questioned by any person, the procedure to be followed is prescribed by section 148 and the decision of the Review or Appeal Committee is final under section 149. If, however, the commissioners are dissatisfied with the valuation or assessment as given in the assessment list they can proceed under section 138 (1) (c), and the other clauses of the section providing for altered circumstances, the procedure to be followed being laid down in section 138. Section 138 does not control section 149, and where the matter has been decided by the Review Committee at the instance of any person, the commissioners have no power to question that decision except in cases of altered circumstances such as is contemplated in section 138 (1) (d), or (f). The language of section 137 (2), and the terms of section 138 (1) (c) which follows it, also support this view. Otherwise, there



will be an infinite series of alterations under section 138, applications and decision under sections 148 and 149 and so on *ad infinitum*, which cannot have been the intention of the legislature.

The municipal commissioners in your division may be informed accordingly.

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*Memo. Nos. 4360-4363M. of "14-5-1936.*

Copy forwarded to all Commissioners of Divisions (except Burdwan), for information and communication to the municipal commissioners in their respective divisions.

**Method of assessment by Union Boards of private buildings hired by Government.**

*Ben., L.S.-G., Cir. Nos. 4911-4915 L.S.-G. of 31-8-1937, to Commr.*

I am directed to invite a reference to Rules regarding Assessment and Collection of the Union Rates issued with the notification No. 1998-L.S.-G., dated the 3rd July 1920, as subsequently amended, and to say that rule 4 of the aforesaid rules lays down that the Government or a local authority owning or occupying buildings in the union may, subject to the maximum limit fixed in the proviso, be assessed in consideration of the annual value of the total property possessed by them within the union.

2. Recently a question has arisen as to how the Government should be assessed in respect of a Sub-Registrar's office located in a private building hired by the Government on a monthly rent. Government are advised that the words "annual value of the total property which Government.....may possess within the union" in rule 4 of the rules cited above should be construed so as to include the annual value of a rented building occupied by Government and that in respect of Government offices located in rented buildings Government should be assessed in consideration of the annual value of such rented buildings." Government agree with the above opinion, and I am to request that the union boards in your division may be informed accordingly.

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*Memo. No. 4916 L.S.-G., dated the 31st August 1937.*

Copy forwarded to the Inspector-General of Registration, Bengal, for information with reference to his letter No. 4752, dated the 20th April 1937.

**Method to assessment by Union Boards of buildings constructed by Railways, Steamer Companies, mills or other industrial concerns for accommodation of their servants.**

*Ben., L.S.-G. Cir., No. 1750 L.S.-G., of 5-7-1938, to Commr., Rajshahi.*

I am directed to refer to your letter No. 5496-M., dated the 9th December 1936, asking for a correct interpretation of the note to rule

2 of the Union Board Assessment Rules published with Government notification No. 4248-L.S.-G., dated the 28th July 1933, regarding the assessment of union rates in respect of the buildings constructed, owned or rented by State Railways, Railway or Steamer Companies, mills or other industrial concerns for the accommodation of servants. You reported that there was a diversity of practice as to the method adopted for the assessment of union rates in respect of railway buildings occupied by railway servants and that opinion varied as to the correct interpretation of the note in question. You accordingly referred the matter to Government and asked for their instruction.

2. In reply I am to say that the matter was referred to the Commissioners of the other Divisions for their considered views, and they were further requested to report the existing method of assessment in the different districts in their respective Divisions. It appears from the reports received from them that there is no uniformity in the method adopted in such cases and that it has been found difficult to give practical effect to the distinction which the note draws between the two classes of employees, viz., (1) those who are required for the proper performance of duties, to reside in the quarters provided for their accommodation and (2) those who reside in the quarters provided by their employers as a matter of administrative convenience.

3. I am to add that Government recognise the difficulty in drawing a distinction between occupation ancillary or necessary to the due performance of duties and occupation for mere administrative convenience. I am to observe, however, that such distinction is inherent in the very conception of the term as a concept of law, as it is only in a case where a servant is required to reside in his master's premises for the proper performance of his duties that occupation by the servant which is necessary to service is, in the eye of law, the master's occupation. The distinction, therefore, cannot be done away with so as to exempt all railway servants from assessment, and assess the railway company, in respect of buildings occupied by their servants. Moreover, Government consider it highly undesirable to do anything which would unduly restrict the scope of local taxation and franchise and deprive the union board of the rates which it is legally competent to levy on the Railway Company and the railway servants according to their respective circumstances and property within the union. In the opinion of Government, therefore, the note to rule 2 of the rules for the Assessment and Collection of Union Rates, which is based upon a clear distinction, sound and equitable in principle, between occupation for the due performance of duty and that for mere administrative convenience, should stand. Its practical interpretation, however, may be left to the discretion of the District Magistrate who is competent under section 40 of the Village Self-Government Act to decide any dispute that may arise about its application in any particular case. This section of the Act provides an aggrieved party with a legal remedy against any wrong and arbitrary decision of a union board by which it may be adversely affected.

4. I am to request that the District Magistrates in your Division may be enjoined to ensure a strict compliance with the note to rule 2 of the Rules regarding Assessment and Collection of the Union Rates, page 106, Union Board Manual, volume I, in the light of the instructions laid down for their guidance.

*Memo. Nos. 1751-1754-L.S.-G., dated the 5th July 1938.*

Copy forwarded to all Commissioners of Divisions (except Rajshahi) for information and communication to the District Officers in their respective Divisions.

## Audit.

### Audit of District Fund and Municipal Accounts.

*Ben., Mun., Cir. No. 17.—M. of 28-5-1898, to Comms.*

The Government of Bengal circulated the following instructions framed by the Examiner of Local Accounts for the audit of District Funds and Municipal Accounts:—

*Directions to Local Auditors as to the Method of conducting Audits of the Accounts of District Funds (including District Road Funds and District Road Accounts) and Municipalities.*

The following audit processes\* containing directions for the audit of District Fund and Municipal Accounts are prescribed for the guidance of local Auditors. In certain cases where a percentage check has been prescribed, it may be found desirable to extend the scrutiny with reference to suspected irregularities or, on the other hand, to curtail one of the prescribed processes when a literal adherence thereto would require a greater expenditure of time than it seems advisable to devote to it. Such cases are most likely to arise in the audit of the accounts of Municipalities, owing to the great variations in the extent and nature of their transactions, and in these circumstances the Auditor should immediately report the matter for orders and suggest the variations in the audit procedure which, in his opinion, will meet the special requirements of the case.

2. In addition to carrying out of the audit according to the prescribed processes, the Auditor should see that the procedure of the office is in accordance with the Account Rules or other rules framed by Government, and he should further bring to my notice any practice which seems to him to be objectionable, though it may not be in contravention of rule.

All objections taken during the audit should be entered in an objection book in left margin, and the Vice-Chairman should be asked to enter therein any explanations or remarks he may have to make. By this means many objections may be settled at the time of audit, and need not be reproduced in the official report. The objection book should be left in the office, so that it may be seen by me or any other inspecting officer.

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\* They are incorporated in the Local Manual of the Local Audit Department, and are, accordingly, not reproduced in this volume.

4. The processes prescribed for the audit of District Fund Accounts are to be followed as far as they are applicable, in auditing the accounts of District Road Funds and District Road Accounts.

5. In auditing the accounts, all items checked are to be ticked or cross-ticked by the Auditors, and all vouchers initialled by him.

**Audit of District Board accounts by the Finance Committee appointed under section 55 of the Local Self-Government Act, 1885.**

*Beng. L.S.-G., Cir. Nos. 167-171 L.S.-G. of 7-4-1928.*

I am directed to invite your attention to section 55 of the Bengal Local Self-Government Act which provides that every District Board shall appoint a Finance Committee who, under rule 16 of the Local Self-Government Account Rules, shall audit the accounts of the district fund every month, and shall certify the result and the correctness of the account as audited by them in an audit certificate which shall be sent to the Accountant-General by the 25th of the following month. This internal audit by the Finance Committee is intended to be complete and concurrent with the external audit conducted by the Examiner of Local Accounts, Bengal, and the importance of this work cannot be too strongly emphasized. It has, however, been brought to the notice of Government that in many districts the Committee hardly perform their statutory duty in this respect. Not only do they not check the accounts till long after they become due, but the check exercised is of a perfunctory nature and in many cases the accounts are left unchecked for years together. If the Committee did their duty properly, the accounts would be maintained in better order and much time of the District Board as well as of the audit department would be saved. It is, therefore, desirable that this defect should be remedied as early as possible. I am accordingly to request that you will be so good as to impress upon the District Boards in your Division the necessity of conforming to the statutory duty imposed on them by rule 16 of the accounts rules and of having their accounts checked regularly. I am to add, that as a matter of principle, the members of the Finance Committee should, as far as possible, be selected from men of business experience with enough leisure to give proper attention to the work of audit.

**Accountant-General, Bengal, to be ex-officio Auditor and Examiner of Municipal and Local Accounts.**

*Beng. Mun. notn. of 20-8-1883.*

The Accountant-General was appointed to be *ex-officio* Auditor and Examiner of Municipal and Local Accounts, conjointly with the officer who may for the time being hold the substantive appointment of Examiner of Local Accounts.

**Abolition of audit fees, charged to Municipalities and District and Local Boards and certain Local Bodies and Funds.**

*India, Fin. No. 554A. of 29-1-1908. Ben. Fin. Cjr. No. 10F. of 3-3-1908, to Commrs., Depts., etc.*

I am directed to forward a copy of the papers noted belbw, from which it will be seen that the Secretary of State has sanctioned the abolition of the fees at present charged by Government for the audit of the accounts of Municipalities, District and Local Boards, Cantonnments and certain local bodies and funds in Bengal. The fees levied for the audit of the accounts of Wards' Estates, Administrators-General, and Official Assignees, and in similar cases where the fund, estate or office is maintained in the interest of private individuals, will however continue to be recovered:—

No. 208, dated the 13th June 1907, and enclosure.

No. 129 Financial, dated the 20th September 1907.

2. The Government of India have decided to give effect to the measure from the 1st of April 1907, compensating Provincial Revenues for the loss they suffer from the abolition of the fees in question. The accompanying statement shows the amount of the receipts from the fees credited to those revenues during the year 1906-07; and on the basis of these figures, the Government of India are pleased to sanction a recurring annual assignment of Rs. 65,000 from Imperial to the Provincial revenues of Bengal, with effect from the current financial year.

**Statement showing receipts from Audit fees credited to Provincial Revenues in 1906-07.**

Bengal—

	Ra.	a.	p.
District Funds .. .. .	30,893	0	0
Municipal Funds .. .. .	26,384	0	0
Calcutta Port Fund .. .. .	6,800	0	0
Steam Boiler Inspection Fund .. .. .	580	0	0
Christian Burial Board Fund .. .. .	100	0	0
Claude Martin Fund .. .. .	38	0	0
Fire Brigade Fund .. .. .	118	0	0
District Road Funds .. .. .	299	0	0
<b>Total .. .. .</b>	<b>65,212</b>	<b>0</b>	<b>0</b>

	Rs.	a.	p.
Burma	72,869	8	8
Bombay	66,750	0	0
<b>Eastern Bengal and Assam—</b>			
District Boards, Eastern Bengal	14,703	0	0
Municipalities	8,189	0	0
Local Boards, Assam	2,776	0	0
Port Funds	450	0	0
Bazar Funds	30	0	0
2 per cent. local establishment entertained in Executive Engineer's offices	13,833	0	0
P. W. D. supervision charges on certain Local Board works	376	0	0
Total	40,357	0	0
Central Provinces	32,336	0	0

### Cost for the special audit of accounts of local fund.

*Bengal L.S.-G. No. 270NF of 29-5-1933, to the A-G., Bengal*

With reference to your letter No. L.A. 1356, dated the 20th November 1931, I am directed to say that the Government of Bengal have decided not to make any change in the rates of recovery of audit fees from the Wards Estates, etc., so far as the *ordinary* audits are concerned, and that the following daily rates of fees should be charged for the *special* audit of accounts of those local funds for the audit of whose accounts the responsibility lies with them:—

Party.	Daily rates.
	Rs.
1 auditor	43
1 peon	
1 auditor	58
1 assistant auditor	
1 peon	73
1 auditor	
2 assistant auditors	88
1 peon	
1 auditor	133
3 assistant auditors	
1 peon	32
1 auditor	
6 assistant auditors	32
1 peon	
2 assistant auditors	32
1 peon	

*Memo. Nos. 4883-4887 L.S.-G., dated the 25th August 1933.*

Copy forwarded to all Commissioners of Divisions for information and communication to the district boards and municipalities in their divisions.

### **Submissions of reports regarding irregularities discovered in audit.**

\* *Ben., Mun., Nos. 5725-5729 M. of 28-9-35, to Commrs.*

I am directed to address you in connection with reports submitted to Government with reference to defects and irregularities discovered in audit, and mentioned either in the annual report on the working of the local audit department or in audit notes of particular district boards and municipalities. Copies of these reports submitted by local bodies are to be forwarded by this department to the Accountant-General, Bengal, and the Finance Department with such remarks as Government in this department may make. I am to request that these reports may be submitted in triplicate in order to prevent unnecessary duplication of work in this department. The district boards and municipalities may be instructed accordingly.

### **Local Audit Report.**

*Ben., Mun., Cir. Nos. 3191-3195 M. of 25-5-1935, to Commrs.*

I am directed to invite a reference to paragraph 37 of the report on the working of the local audit department for the year 1931-32 (copy enclosed) and to state that as irregularities of this nature are becoming frequent in spite of instructions in audit, all the district boards and municipalities in your division should be warned that repetition of such irregularities in future may entail stoppage of grants in the following year.

*Memo. No. 3196 M., dated the 25th May 1935.*

Copy forwarded to the Finance Department of this Government for information.

### *G—Partial utilisation of Government grants.*

37. It is common for many municipalities not to refund the unspent Government grants received for specific purposes in spite of instructions in audit, e.g., the Bogra Municipality did not refund the unspent grant of Rs. 74 received in 1927-28. Similar omissions were also noticed in the case of the Municipalities of Midnapore, Suri, Chandrakona, Jamalpur, Sonamukhi, Barrackpur, Budge-Budge, Chandpur, Noakhali, Jalpaiguri, Chittagong, etc.

### **Local Audit Report.**

*Ben., L.S.-G., Order No. 3310 L.S.-G. of the 5-6-1935, to the A.-G., Bengal.*

In continuation of Government order No. 3542-43 L.S.-G., dated the 8th August 1934, regarding paragraph 35 of the local audit report for

the year 1930-31, I am directed to forward a copy of letter No. 3780M., dated the 7th February 1934, from the Commissioner of the Rajshahi Division with enclosures, with the observation that in view of the practical difficulties in following the provisions of rule 157 of the Local Self-Government Account Rules it was amended in Government notification No. 3263L.S.-G., dated the 1st May 1933.

The issue of this order has the concurrence of the Finance Department of this Government.

*Memo. No. 3711L.S.-G., dated the 5th June 1933*

Copy, with copies of enclosures, forwarded to the Finance Department for information, in continuation of this department endorsement No. 3543L.S.-G., dated the 8th August 1934.

*Memo. Nos. 3312-3316L.S.-G., of 5th June 1933*

Copy, with a copy of paragraph 3a of the report on the working of the Local Audit Department for 1930-31, forwarded to all Commissioners of Divisions for information and necessary action.

*No. 3750M., dated the 6th 7th December 1934, from the Commissioner of the Rajshahi Division, to the Secretary to the Government of Bengal, Local Self-Government Department*

In continuation of my letter No. 1007M., dated the 4th April 1934, about extract paragraph 3a from the report on the working of the Local Audit Department, Bengal, for the year 1930-31, about collection of pound and ferry rents in office, I have the honour to forward herewith a copy of memorandum No. 5871J., dated 23rd November 1934, from the District Magistrate of Dinajpur, submitting a copy of the report from the Chairman, District Board, Dinajpur, on the subject.

In this connection, I beg to invite a reference to the remarks communicated in my letter No. 693M., dated the 10th March 1934.

*Mem. No. 5871J., dated the 23rd November 1934*

Copy of the following forwarded to the Commissioner of the Rajshahi Division, for information, with reference to his No. 397-99M., dated the 7th February 1934.

It was after several reminders that this reply which gives a somewhat extraordinary reason for the irregularities in procedure was received. The Chairman is being asked to follow the existing rules strictly in dealing with rents of pounds and ferries.

*No. 2414, dated the 17th November 1934, from Rai Sahib Jatindra Mohan Sen, B.L., Chairman, District Board, Dinajpur, to the District Magistrate, Dinajpur.*

With reference to your memorandum No. 740J., dated the 16th February 1934 and subsequent reminders regarding certain audit objections about collection of pound and ferry rents in the District Board



and Local Board Offices, I have the honour to say that in view of the practical difficulties in strictly following Rule 157 of the Local Self-Government Account Rules on the subject this Board was acting, as far as practicable, in accordance with the principles laid down in the draft amendment of the rule in question published under Government notification No. 4090L.S.-G., dated the 19th September 1932 (copy forwarded to this office with your memorandum No. 5515-18J., dated the 26th October 1932). If the said amendment be not given effect to and if the Government desire that the existing rule should be strictly followed the Board will act according to in future.

## Bills.

### Liabilities of Municipalities on current bills to be reported annually.

*Re: Mun. Cir. No. ST. M. of 9-5-1905, to Commrs.*

It has been brought to the notice of Government that Municipalities are sometimes in debt on current bills. Under rule 33 of the Municipal Account Rules all claims which are preferred and accepted should be paid at the earliest possible date. This, however, is not always done, and the result is that bills are allowed to run on and the year closes with large outstanding liabilities. Where this is the case, the accounts submitted to Government do not show the true financial position of the Municipalities.

2. In order to remedy this it has been decided that every Municipality should submit, at the end of the year, a list of outstanding debts to the Magistrate of the district. This list may be readily prepared from the registers which are prescribed in the Account Rules. Under rule 120 of these rules every Municipality must maintain a register of works in Form XLVII or XLVIIA, in which arrears due on account for which part payments have been made are shown. Under rule 33 a register in Form V must be kept, in which are entered all bills which have not been paid within a month of presentation, and an order book in Form VI in which are entered all orders for supplies or works other than those for which formal agreements have been taken and particulars of which are entered in the Register of Works. These registers, if kept up to date, will show at once the liabilities outstanding on the 31st March.

3. The detailed list submitted by each Municipality to the Magistrate of the district should be scrutinized by him and steps taken to ensure that all admitted claims are paid without delay. If the outstanding debts are large special enquiry should be made and the result reported to you. When the municipal accounts are audited the local auditor will check the list, and if it is found that a payment has been made on account of a debt of a year that is closed, which was not shown in the list, he will mention the fact in his audit report.

4. A consolidated list in the Form annexed should be submitted to Government with your Annual Report on the working of the Municipalities, but your Report for the year 1904-05 should not be delayed on this account.

**Statement showing Outstanding Liabilities of Municipalities in the  
on the 1st March 19 .**

**Division**

Name of municipalities.	Current demand.	Closing balance.	Outstanding liabilities.	Percentage of column 4 on column 2.
1	2	3	4	5

**Bills of contractors to be checked by the District Engineer before submission to Chairman for payment.**

*Beng. Mun. (L.S.-G.), Cir. No. 28 of 25-4-1901, to Comms.*

The Accountant-General, Bengal, has brought to the notice of Government that much diversity of practice exists at present in the check and examination of contractors' certificates and bills relating to Public Works charges which are passed by the District Engineer and forwarded to the office of the Chairman of the District Board for payment. He has suggested that uniformity of practice should be enforced in this respect, and that the Chairman's office should exercise some check as a safeguard against possible collusion.

2. The Lieutenant-Governor has given the subject his careful consideration, and has come to the conclusion that the District Engineer should be primarily responsible for every detail in a bill submitted by him to the Chairman's office for payment. The District Engineer's office should check the details in the bill with the measurement books, the rates entered in the sanctioned estimates, the quantities and rates of materials supplied from stock or from material at site, etc., and previous payments made on account of the same work, and attend to such other matters as are provided for in the existing Rules under Parts VIII, IX and IXA of the Local Self-Government Act Rules. The District Engineer, before certifying the bill as correct, should satisfy himself that all necessary checks have been applied by this office.

3. If such a check is properly applied, and having regard to the orders of Government contained in the letter No. 3401 L.S.-G., dated the 20th January 1901, directing that all final bills of contractors and 25 per cent. of part payment bills should be tested in detail by the local auditors, the Lieutenant-Governor considers that it will be sufficient if the scrutiny and check in the Chairman's office be confined to the following points:—

- (1) Comparison of the rates with those sanctioned in the agreement.
- (2) Budget allotment.
- (3) Balance available for the work after deducting previous payment.

## Bombs and Fireworks.

### Control over the use of bombs and fireworks within Municipal limits.

*Ben., Gen. (Mun.), Cir. Nos. 1T.—M. of 23-9-1915, and 346-40M. of 9-2-1915, to all Commrs.*

I am directed to invite attention to clause (aa) of section 350 of the Bengal Municipal Act, 1884, which empowers Municipalities to frame a by-law prohibiting the letting off of fire-arms, fire-works, fire-ballons, or bombs, except with the permission of the Commissioners and on payment of fees at such rates as may be sanctioned by them at a meeting. Such a by-law has been framed by almost all the Municipalities in the Province. This measure affords ample safeguard against the indiscriminate use of fireworks generally; but some of the larger fireworks or bombs are a potential source of danger and it is essential that the Police should have effective control over them. The Governor in Council is accordingly pleased to direct that before considering an application under the by-laws for permission to let off fireworks or bombs Municipal Commissioners should require the applicant to state the nature of the fireworks that he intends to let off, and that, in the event of bomb-golas or any other kind that may be considered dangerous being contemplated, the Municipal Commissioners should act in consultation with the Superintendent of Police in granting or refusing the permission asked for.

*Letter No. 14026-438-141B., dated the 10th December 1914, from the Inspector-General of Police, Bengal, to the Secretary to the Government of Bengal, General (Municipal) Department.*

I have the honour to refer to Municipal circular No. 1T.—M., dated the 23rd September 1914, prescribing that before Municipal Commissioners accord or refuse permission to the letting off of bomb-golas or any other kind of firework that might be considered dangerous, the Superintendent of Police should be consulted.

2. I was not in India when this matter was considered, or I should have suggested that, in the case of subdivisions remote from headquarters, the chief police officer of the subdivision should be consulted in such cases.

3. As such a procedure would be more expeditious and convenient both to the Municipality and the police, and as the subdivisional police officers and circle inspectors posted to subdivisions are quite capable of advising the municipality in such a matter, I, therefore, have the honour now to recommend the modification of the scheme to the favourable consideration of Government.

\*Note.—Subsequently, in circular No. 1 T.—M., dated the 23rd September 1914 Government directed that where a municipality is situated in a subdivision other than the Sadar subdivision of a district and is remote from the district headquarters, the Municipal Commissioners should consult the chief police officer of the subdivision in granting or refusing permission to let off dangerous fireworks or bombs.

## Boundaries.

### Revision of boundaries of Municipalities.

*Beng. Mun. Cir. No. 48M of 12-12-1903, to Commrs.*

The Bengal Government directed that in future whenever any proposal for the revision of boundaries of a Municipality is submitted for the sanction of Government, information should be furnished in regard to the area of the land which it is proposed to include within or exclude from municipal limits, in order that the list of areas of Municipalities kept by Government may be corrected up to date.

## Bridges.

### Contribution by District Boards for the Construction of bridges within Municipal limits.

*Beng. Mun. (L.S.-G.), No. L.4-B.—3-1 of 28-3-1889, to Commr., Rajshahi.*

I am directed to forward herewith, for your information, a copy of a communication from the Legal Remembrancer, in which he states that, in his opinion, the proposed contribution of Rs. 2,000 from the Rajshahi District Fund towards the construction of a bridge within the limits of the Natore Municipality is authorized by section 79 of the Bengal Local Self-Government Act, 1885.

I am to say that the Lieutenant-Governor concurs with the Legal Remembrancer's view.

*Letter No. 16329, dated the 18th March 1889 from the Legal Remembrancer, to the Government of Bengal.*

In reply to your No. L.4-B.—3-2 of the 11th instant I have the honour to say that, in my opinion, section 79, Act III B.C. of 1885, is wide enough to cover the proposed contribution, and that the District Board would therefore be legally competent to expend money in constructing the bridge, even though it lies within Natore Municipality.

### Principles to be followed in levying tolls on bridges constructed by District Boards.

*Beng. L.S.-G., Nos. 272-276, L.S.-G., of 2-2-1926 to Commrs.*

In their circular Nos. 734-760T.—L.S.-G., dated the 6th September 1910, Government laid down the general principles to be followed in considering applications from District Boards for the levy of tolls on bridges constructed by them. While stating that it was not intended to

prescribe any hard-and-fast rules on the subject and that each application would be considered on its merits, the circular lays down that in determining whether tolls should be levied by District Boards Government would generally be guided by the following considerations, viz. :—

- (1) that the determining factor for the levy of tolls would be the possibility of making good the loss of ferry income rather than the recovery of the cost of building a bridge;
- (2) that tolls should not be imposed for a longer period than 20 years; and
- (3) that the tolls imposed should bring in an income of not less than Rs. 1,000 a year.

It has, however, been found that the necessity of fulfilling these conditions is a great hindrance to the construction of new bridges by District Boards. Accordingly, in this department circular Nos. 60-64-L.S.-G., dated the 6th January 1925, you were asked to favour Government with your views, after consulting the District Boards in your Division, as to whether the order of 1910 should not be modified so as to authorise District Boards to recoup their outlay on the construction of new bridges by the levy of tolls. From the replies received it appears that opinion is generally in favour of the modification. Government are accordingly pleased to withdraw their circular of the 6th September 1910, subject to this proviso that except in special circumstances District Boards should not be allowed to levy tolls for a longer period than 20 years. I am to request that the District Boards in your Division may be informed accordingly.

## Budget (Municipal).

### Relaxation of control over Municipal Budgets.

*Beng. Mun. Cir. No. 5M. of 19-1-1916, to Commrs.*

I am directed to address you with regard to the relaxation of the control exercised by Commissioners and District Magistrates over municipal budgets.

2. As a result of the recommendations of the Decentralization Commission, the Government of Bengal, in Circular No. 2T.—M. of 20th April 1910, instituted the experiment of giving four municipalities with an income of over Rs. 1,00,000 a free hand with their budget subject to certain specified restrictions, and at the same time enjoined generally a policy of non-interference by Commissioners, with the details of the budgets of all other municipalities. These instructions were subsequently given effect to in the Divisions of Eastern Bengal by Circular Nos. 1160-62T.—M. of 23rd October 1912. In resolution Nos. 55-77 of 28th April 1915, on the Local Self-Government Policy, the Government of India refer to the recommendations of the Decentralization Commission for the relaxation of financial control over municipalities as “expressing a policy to be kept steadily in view, and gradually realised.” The Government of Bengal have for the last five years had under careful observation the

results of the experiment made in the year 1910, and of the general orders with which it was accompanied. The Governor in Council is satisfied that the experiment has on the whole justified itself, while at the same time he notices in the affairs of municipalities a growing sense of responsibility and capacity for self-management, which encourage him to believe that further confidence in their powers of financial administration would not be misplaced.

3. Under sections 76 and 77 of the Bengal Municipal Act, municipal budgets and re-appropriations have in all cases to receive the sanction of the Commissioner; and the orders contained in the circulars above quoted have defined the principles on which Commissioners should exercise their powers under these sections. It is the intention of Government that municipalities in general should now enjoy the fullest measure of financial independence allowable under law. I am accordingly directed to say that the instructions contained in Circular No. 2T.—M. of 20th April 1910, for giving a free hand in framing their budget to the Municipalities of Burdwan, Howrah, Cossipore-Chitpur and Manicktollah, should be held applicable to the supervision exercised by Commissioners over municipal budgets, not only in the case of these four municipalities, but as a general rule Municipalities will be left a free hand in framing their budgets according to their discretion and Commissioners will be ordinarily required only to see—

- (i) That the necessary minimum closing balance is retained.
- (ii) That due provision is made for the service of all municipal loans.
- (iii) That the provisions of the Act and any statutory rules and standing orders of Government are complied with.

4. While convinced that municipalities in general are now ripe for this concession, the Governor in Council recognises the possibility that there may be definite reasons for believing some particular municipality unfit for this degree of freedom from control. The Governor in Council would be prepared to consider the advisability of accepting such a municipality from the effect of these orders, but it is to be understood that such denial to any municipality of the general concession now made would be a disability imposed only on adequate grounds, which must be specific. I am directed accordingly to request that you will examine the position of the municipalities in your Division in this light, and should there be any to which you are of opinion that these orders should not apply, report in detail to Government the circumstances on which such an opinion is based. I am further to say that with the exception of any municipality the case of which it is thought desirable to submit to Government for this reason, the instructions for giving municipalities a free hand with their budget contained in paragraph 3 of this letter should be followed in respect of all municipal budgets now under consideration or subsequently received.

**Instructions as to how receipts from taxes should be estimated.**

*Ben. Munpl. Cir. Nos. 2515-2518 M. of 17-8-1929, to Commrs.*

The attention of Government has recently been drawn to the footnote in the form of Municipal Budget Estimates indicating that the

collections of arrear taxes should be estimated at 90 per cent. and collections of current taxes at 95 per cent. For the purposes of budgeting estimates the adoption of fixed percentage proves to be a mistaken method tending to undue inflation of estimated receipts. I am to say, therefore, that municipalities should be advised to delete the footnote referred to from their budget form and to base their estimates on probable receipts in the light of actuals in recent years as modified by any prospect of additional income from enhancement of assessment, inclusion of additional areas, special activity in building or similar factors.

2. I am at the same time to point out that while avoiding over-estimate of receipts for the purposes of calculating how much money is likely to be available for expenditure, municipalities should not relax their efforts to realise the whole of the taxable demand. The fact that in view of the past actuals they may estimate receipts at a lower figure should not be allowed to lead to slackness in their Collecting Department.

3. I am to request that the above instructions may be communicated to the municipalities in your division.

### **Control over Budget of badly managed municipalities.**

*Beng. Mun. Cir. No. 24M. of 23-11-1916.*

In this Government circular No. 5M., dated the 19th January 1916., it was stated that, in view of the growing sense of responsibility and capacity for self-management displayed by municipal bodies, the Governor in Council had decided to relax the control exercised by Commissioners of Divisions and District Magistrates over municipal budgets. It was accordingly laid down that, as a general rule, municipalities might be allowed to frame their budgets according to their discretion, the Commissioners of Divisions being required only to see that provision was made for the necessary closing balances and for the service of municipal loans, and that the statutory law and rules, as well as standing orders of Government, were observed. As, however, it was thought possible that there might be particular municipalities, the maladministration of which had proved their unfitness for such a measure of financial freedom, the Commissioners were requested to examine the position of the municipalities in their respective divisions and to report whether there were adequate grounds for excepting any of them from the effect of this general order.

2. The Governor in Council is gratified to observe that, out of 113 municipalities in the province, there are only three, viz., the municipalities of Rampur-Boalia, Pabna and Mahespur (Jessore), to which it appears to be unsate at present to grant such a financial independence. For the present, therefore, and until their administration improves, the Commissioners and the District Magistrates concerned will continue to exercise control over the budget estimates of these three municipalities, and the concession above referred to will be enjoyed by all other municipalities of the Presidency.

### **Submission of municipal budget to Local Officers.**

*Beng. Mun. Cir., Nos. 2074-2078M. of March 1933, to Commrs.*

Sections 112 to 114 of the Bengal Municipal Act, 1932, empower the municipal commissioners at a special meeting to sanction their

budget estimates, subject to the maintenance of such minimum closing balance as may be prescribed by Government. The sanction of a higher authority under section 116 of the Act is necessary only in the case of an indebted municipality. But it will not always be possible for Government to determine cases in which this control is to be exercised, without the considered opinion of the local officers who are in a better position to decide whether the condition of a municipality is such as to make this control over its budget desirable.

2. I am accordingly directed to say that a copy of the budget estimates of each municipality as sanctioned by the municipal commissioners should be forwarded through the District Magistrate to the Divisional Commissioner who will promptly report to Government whether the condition of the municipality is such as to require an intervention under section 116.

3. Some of the Municipal Account Rules regarding the preparation of budget estimates (e.g., rules 24, 24-A of model rules) require revision. Until this is done or new rules are framed under section 122(c) and (d) of the Act, the minimum working balance (or cash reserve) prescribed in the last sub-paragraph of rule 24 of these rules may be adhered to.

### **Submission of budget estimate of a municipality.**

*Beng. Mun. Cir. No. 224 M. of the 14-1-1936, to Commr., Burdwan.*

With reference to your letter No. 2264 M., dated the 3rd December 1935, I am directed to say that the budget estimates of a municipality need not be forwarded to the Government unless intervention under section 116 of the Bengal Municipal Act, 1932, is recommended by the Commissioner.

Memo. Nos. 225-28 M., dated 14-1-1936.

Copy forwarded to all Commissioners of Divisions (except Burdwan Division) for information, in continuation of Government circular Nos. 2074-2078 M., dated the 17th March 1933.

### **Budget (District Boards).**

#### **Control over Budget of District Boards.**

*Beng. Mun. Cir. No. 57 T.-L.S.-G. of 12-10-1912, to Commr.*

In paragraphs 780 and 784 of their report, the Royal Commission upon Decentralization recommend the District Boards should have full power to pass their budgets and make re-appropriation of grants subject only to the maintenance of a prescribed minimum balance. At present under sections 48 and 49 of the Local Self-Government Act, the Commissioner of Division has full control over the District Board's budget, except that he cannot make any alterations that may have the effect of raising the total of the expenditure above the total



of the sum estimated to be at the disposal of the District Board. After consulting the Commissioners in this Presidency, the Governor in Council has decided to relax the Commissioner's control in this respect and to direct that the supervision of the Commissioner over the District Board budget shall be concerned only with the following points:—

- (1) the maintenance of a minimum balance;
- (2) the sufficiency of the provision for repayment of existing loans;
- (3) the appropriation of all money contributed for a specific purpose to that purpose;
- (4) the observance of all legal provisions and orders of Government; and
- (5) the formal technical correctness of the budget.

Apart from these matters any check he may desire to exercise should be restricted to suggestion and advice. The Governor in Council also directs that District Boards should be allowed to re-appropriate without reference to the Commissioner from minor heads under the same major head. In order to keep within the provisions of section 49 of the Act which requires the approval of the Commissioner to amendments or revision of the budget estimates and therefore to re-appropriations, the Commissioner should, when passing orders upon the budget, authorise re-appropriations generally from one minor head to another under the same major head without further reference to him.

### **Instructions for the preparation of budgets by District Boards.**

*Ben. L.S.-G. Cir. Nos. 3055-3059 L.S.-G. of 23-9-1929, to Commrs.*

I am directed to enclose, for your information, extract paragraph 13 of the Report on the working of the Local Audit Department for the year 1927-28, and to communicate the following observations of Government on the subject of preparation of budget estimates by District Boards.

2. The funds of the District Boards are limited, but it has been noticed that there is a tendency to overestimate the receipts and to provide for expenditure on new schemes of doubtful public utility to the exclusion of funds vitally necessary for the maintenance of permanent works or for the completion of works already undertaken. This is not sound, nor is it economical to have new small roads or other works in isolated places where traffic is comparatively small and repairs and supervision are difficult. The importance of accurate budgeting need hardly be stressed, for finance forms the pivot of administration. I am accordingly to ask you to advise the local authorities to work out carefully beforehand a programme of new schemes arranged in order of urgency for which it is necessary that funds should be provided in the budget of the ensuing year. The budget on the receipt side should include the amount most likely to be realized, and on the expenditure side the provision for proper maintenance of all existing works of public utility and for works in progress should take precedence over new works.

3. In this connection I am to invite your attention to Government notification No. 2076 L.S.-G., dated the 12th July 1929, of which a copy was sent to you with this department memorandum Nos 2077-2081 of the same date, and to say that the budget, if prepared in the form therein prescribed, will enable the controlling officers to exercise requisite control over the "Civil Works" portion of the budget.

*Extract paragraph 13 of the Audit Report.*

13. There is much indifference in regard to the observance of the recognised method for the preparation of the estimates. The receipts are often inflated without any regard for probabilities apparently to secure a balanced budget. There is a frequent desire to introduce new items of expenditure by curtailing the funds essentially necessary for the maintenance of permanent works or communications. In short, there is little method in elaborating plans and utilising funds to the greatest advantage. The Superintending Engineer, Eastern Circle, has recently brought to notice that in some district boards a considerable number of new works is provided, necessarily curtailing thereby the provision for completion of the works which are already in progress. This policy is considered to be neither economical nor sound, as the district board's funds, being generally insufficient properly to maintain the existing roads, it is hardly desirable to construct small roads in isolated places where repairs and supervision are difficult and traffic comparatively small, allowing the works already in progress to be thrown forward from year to year. The Superintending Engineer has therefore suggested the adoption by the district board of the Public Works budget from which contains columns for showing the estimated cost of each project, the expenditure incurred up to date and the provision proposed in the ensuing budget, separately for works in progress and for new works; its use would therefore enable the controlling officers to ascertain readily whether sufficient provision has been made for all works in hand.

The importance of accurate budgeting need hardly be stressed, for finance forms the pivot of administration. It seems desirable to advise the local authorities that only the amounts most likely to be realized or spent should be provided in the budgets, that provision for the proper maintenance of all works of public utility should take precedence over new works and that a careful plan should be worked out beforehand for the execution of new works and funds should be provided according to their relative importance and urgency.

**Discontinuance of the submission of details of repair works with the Budgets of District Boards.**

*Ben., Mun. (L.S.-G.), Nos. 2118-23 L.S.G. of 12-8-1914, to Comms. and A.-G., B.*

I am directed to say that details of repair works under "45—Civil Works—Communications" need not in future be submitted with the budgets of District Boards, a lump sum based on the average expenditure of the preceding three years should be provided in the budget for that purpose.

2. I am to add that the form of the budget should be corrected by expunging the words "details as per schedule attached" under the heading "Repairs," "45—Civil Works—Communications."

## Budget (Local Boards).

### Control over Budget of Local Boards.

*Ben., Mun. (L.S.-G.), Cir. ST.—L.S.-G., of 15-10-1912, to Commsr.*

In paragraph 781 of their report, the Decentralization Commission propose that the Local Board should have as full power in respect of its budget as the District Board itself. This recommendation follows naturally upon the attitude adopted by the Commission on the subject of the proper relations between District and Local Boards. But, apart from any considerations of this kind, the Governor in Council considers that considerably more freedom might be allowed to the Local Boards in this respect than has hitherto been the practice. The chief difficulty that has hitherto stood in the way of delegating more power and responsibility to Local Boards is the question of finance; but where the District Board is able to hand over the control of any branches of its administration to Local Boards with funds for the purpose of such control, it is desirable that the transfer of funds should take the form of a lump grant fixed preferably for a term of not less than three years. The Local Board should then be at liberty to budget for the expenditure of the grant at its own discretion, subject only to the observance of any specific directions as to the objects for which any portion of the grant is given, but such directions on the part of the District Board should not extend beyond the allotment of funds to major heads. This principle was accepted by the Conference of Commissioners held at Darjeeling in 1911, and I am to request that it may be adopted by the District Board in your Division.

## Building Regulations.

### Working of building Regulations in Municipalities.

*Ben., Mun., Cir. No. 18M. and No. 2675M. of 7-11-1902, to Commsr.*

The attention of Government has been drawn to the ruling of the High Court in the case of *Emperor versus Mathura Prosad*, published at page 491, Vol. XXIX, Part VII of the Indian Law Reports, Calcutta Series, which is likely to have a prejudicial effect on the working of the building regulations in mufassal Municipalities. It will be seen that the reference of the Sessions Judge was for setting aside the order for demolition, which appears to have been irregularly passed under section 298 (1) of the Bengal Municipal Act by the Subdivisional Magistrate, whereas such an order can only be passed by the Commissioners. The High Court, however, set aside the conviction under section 273 (1) as well as the order for demolition. The Legal Remembrancer, who has been consulted in the matter, is of opinion that the

learned Judges overlooked section 240 of the Act which gives a definition of the terms "erect" and "re-erect," and which if referred to, would have altered the aspect of the case. I am to observe that this decision should not be permitted to influence the action of Municipalities in enforcing the building regulation, and to request that, in the event of any application or reference being made to the High Court against a conviction under section 273 (1) of the Bengal Municipal Act, the Legal Remembrancer may be promptly informed by the District Magistrate, so that he may cause the Crown to be represented at the hearing of the case before the Court.

2. Meanwhile, a Magistrate convicting under section 273 (1) should in every judgment expressly refer to all the sections concerned, including section 240. I am glad to request that you will be so good as to communicate these orders to all District and Subdivisional Officers and Municipalities in your Division for information and guidance.

### **Building Schemes of Aided Schools (municipal).**

*Beng. Mun. Cir. Nos. 663-667M. of 24-2-1938, to Commrs.*

In forwarding herewith a copy of letter No. 20881S., dated the 16th December 1927, from the Director of Public Health, Bengal, and of its enclosure, I am directed to request you to be so good as to instruct the local bodies in your divisions to strictly observe the procedure laid down by the Education Department of this Government in connection with building schemes of aided schools for which a grant-in-aid is given.

*Letter No. 20881S., of 16-12-1927, from Director of Public Health, Bengal, to the Department of Public Health and Local Self-Government.*

I have the honour to submit for the local Government's information that a plan for the construction of a building for the municipal high school at Burdwan has been received in the Bengal Public Health Department for approval from the Inspector of Schools, Burdwan Division, although the building was actually constructed previously. Under the grant-in-aid rules, procedure to be observed in connection with building schemes has been laid down in the Education Department letter No. 4427Edn., dated the 24th December 1926 (copy enclosed). It has been advised in that letter that plans and estimates, when ready, should be forwarded to the Director of Public Health and, after his approval, they should be submitted to the Public Works Department for examination. As it is unnecessary to pass any opinion on any plan when the building has actually been constructed, I would request that necessary steps may be taken by the local Government so that similar instance may not recur.

*Letter No. 4427Edn., of 24-12-1926, from Education Department, Bengal, to the Director of Public Instruction, Bengal.*

In supersession of the orders conveyed in Government letter No. 727, dated the 22nd March 1916, regarding the procedure to be observed in connection with building schemes of aided schools for which a grant-in-aid is given, I am directed to say that in future plans and estimates should be obtained by the authorities of the schools by employing reliable firms or contractors who can prepare these properly and not from the Public Works Department. The plans and estimates when ready should be forwarded by the Inspector or Inspectress of Schools, as the case may be, to the Director of Public Health, Bengal, and after his approval, they should be submitted to the Public Works Department for examination. No work should be commenced before the plans and estimates are approved by the Public Works Department and the question of the grant has been settled and 15 days' notice should be given in writing by the school authorities to the Executive Engineer prior to the commencement of the work. That officer should be given a chance of inspecting the foundations. I am to request that the Inspectors and Inspectresses of Schools may be instructed accordingly and proposals for making necessary corrections in the grant-in-aid rules may be submitted to Government for approval.

## **By-Laws (District Boards).**

### **Model By-laws for District Boards.**

*Ben., Mun. (L.S.-G.), Cir. No. 14 of 7-3-1910, to Commsr.*

Section 139 of Bengal Local Self-Government Act of 1885, as amended by section 61 of Bengal Act, V of 1908, requires the confirmation by the Commissioner of the Division of any bye-laws made by a District or Local Board for carrying out all or any of the purposes of the Act, reserving to the local Government a general power of control. It was explained in paragraph 5 of Mr. Oldham's Circular No. 79L.S.-G., dated the 4th December 1908, that the intention was that the adoption of any model rule or bye-law by a District or Local Board should be sanctioned by the Commissioner of the Division without reference to Government, but that any modification or the adoption of any new rule or bye-law should require the approval of the local Government.

2. I am now to forward a set of model bye-laws\* which should be adopted as a standard in complying with the above orders. The bye-laws in question have been drafted upon the lines of existing regulations governing the administration of different District Boards, and it is possible that the enactment of all of them would not be desirable or necessary in the case of all Boards. It is open to you to permit the omission of any of the model bye-laws, which in your opinion, are not required, and minor modifications of them need not be submitted to Government for orders; but proposals to add new bye-laws, or to depart materially from the model provisions should be submitted for scrutiny, in order that Government may exercise its power of control should such action appear to be called for.

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\* *Note*—Not reproduced in this volume as they are embodied in Collier's Municipal Manual. ●

3. Copies of the model bye-laws should be communicated to all District Boards, but it is not necessary that all existing regulations should be brought into conformity with them, unless on general grounds it appears expedient to do so.

**By-laws regulating the use of motor vehicles on roads and bridges belonging to District Boards.**

*Ben., L.S.-G., No. 4887 L.S.-G. of 30-11-1927, to Commr., Dacca.  
(Copy to other Commrs.)*

I am directed to refer to your letters Nos. 1532J. and 1533J., dated the 12th March 1927, regarding draft by-laws framed by the Dacca and Faridpur District Boards, regulating the use of motor vehicles in their roads and bridges.

2. In reply, I am to say that Government have revised the by-laws so as to make them intra vires of the Bengal Local Self-Government Act. A copy of the revised draft by-laws is enclosed. The District Boards of Dacca and Faridpur may be advised to adopt them with your sanction and publish the same in the manner prescribed by notification No. 764T.—M., dated the 7th September 1910.

3. I am also to request that copies of the by-laws may be furnished to other District Boards in your Division with the intimation that they may adopt them with the like sanction.

**Draft bylaws.**

*Faridpur District Board.*

*Definition.*—"Motor vehicle" excludes motor cycle, road roller or vehicle which runs on rails.

(a) No person shall drive over any road or bridge a vehicle whose weight when unladen exceeds the weight prescribed by the District Board as the maximum weight of a vehicle that may be driven over such road or bridge, or at a speed greater than the maximum speed prescribed by the District Board for such road or bridge.

*Dacca District Board.*

(a) No person shall drive over any road or bridge a vehicle whose weight when unladen exceeds the weight prescribed by the District Board as the maximum weight of a vehicle that may be driven over such road or bridge.

*Dacca and Faridpur District Boards.*

(b) No person shall drive a motor vehicle over any road or bridge which has been closed to motor vehicles by order of the District Board with the sanction of the Commissioner.

(c) No motor vehicle shall run on any road unless the tyres of the wheels are pneumatic.

(d) A breach of any of the above by-laws shall be punished with fine which may extend to Rs. 50. A continuing breach shall be punished with a further fine which may extend to Rs. 5 for every day during which the breach is continued after the offender has been convicted of such breach.

**By-laws to preserve the purity of the water of a private tank to the excavation or maintenance of which the District Board has contributed with the consent of the private**

*Ben. L. S.-G. letter No. 3758 L. S.-G. of 20-11-1929, to Commr., Precy. Divn., and Memo. No. 3862-65 L. S.-G. of 13-12-1929, to other Commrs.*

I am directed to refer to the correspondence resting with your letter No. 15 L.S.-G., dated the 22nd January 1929, regarding the revision of by-laws framed by the 24-Parganas District Board under sections 139 and 140 of the Local Self-Government Act.

2. As regards the validity of the proposed by-laws 1 (2) (a) and 1 (2) (b), I am to say that Government are advised that on a fair reading of section 79 together with section 139 of the Act, it is lawful for a district board to frame a by-law to preserve the purity of the water of a private tank to the excavation or maintenance of which the district board has contributed with the consent of the private owner. If a contract has been made, the private owner would be bound by its terms. If no contract has been made, the mere fact that the owner has consented to the board contributing to the improvement of the water with a view to preserving it for the supply of drinking water, will give rise to an implied contract that the owner has consented to the reservation of the tank for supply of drinking water and to the prevention of contamination thereof.

As to any easements which third persons may have established against the owner, they will no doubt be unaffected by the express or implied contract made by the owner. To that extent the easement-holder may have a valid defence against the district board by-law. In practice, however, such easements will be few, and reasonable men will take the view that it is good for the public to preserve the purity of drinking water. I am accordingly to request that you will be so good as to confirm the by-laws framed by the district board as now revised in exercise of the powers conferred on you by section 139 of the Local Self-Government Act.

**By-law—24-Parganas District Board.**

[As approved in Government order No. 3758 L. S.-G., dated the 30th November 1929.]

(2) "reserved tank or well" means a tank or well which the district board has set apart under section 90 of the Bengal Local Self-Government Act of 1885 (Bengal Act III of 1885) by public notice, for the supply for drinking and for culinary purposes and includes any reservoir or part of any river, khal or other channel, so set apart,

- (a) and any tank or well on which district fund money has been spent under section 79 of the Local Self-Government Act;
- (b) or any other tank or well made over to the district board by private owners for the purpose of reservation of water for drinking and culinary purposes;

and a notice-board on the edge of a reserved tank or well containing the words "reserved tank" or "reserved well", or words to that effect, shall be deemed to be sufficient notice for the purpose of this definition.

Extract paragraph 2 of the above forwarded to all Commissioners of Divisions (except Presidency), with the request that copies of the order may be communicated to all district boards in their Divisions for information.

In modification of the orders contained in Government Circulars No. 16. dated 29th December 1882, and No. 1T.—M., dated 9th May 1883, I am directed to request that in future the Public Works Department of this Government may be informed direct on or before the 15th February of each year whether the services of officers of the Public Works Department will be required by any Municipality in your Division during the ensuing year for the execution of any work of public utility. In consequence of these orders the submission of the annual statement on the subject to this Departments may be discontinued in future.

### By-laws.

#### **Framing of by-laws under section 139 or 140 of Act III (B. C.) of 1885 (Local Self-Government Act)**

*Beng. Muni. Act, No. 764 T.—M. of 7-9-1910.*

In exercise of the power conferred by clause (i) of section 138 of the Bengal Local Self-Government Act of 1885, and with reference to sections 139 and 143 of that Act, the Lieutenant-Governor is pleased to make the following rules as to the preliminary publication, the confirmation and the final publication of by-laws made by district boards or local boards under section 139 or section 140 of that Act:—

1. All draft by-laws framed by a district board or local board under section 139 or section 140 of Bengal III of 1885, shall be published in the following manner:—

(a) the draft by-laws, together with a notice specifying the date on or after which the draft will be taken into consideration with a view to its final adoption, shall be written both in English and in the vernacular of the district and deposited in the office of the district board or the local board, as the case may be;

(b) copies of the draft and notice, in English and in the said vernacular, shall also be posted up in a conspicuous position at the following places within the district:—

- (i) the offices of the district board and the local boards,
- (ii) the offices of the District Magistrate and Collector,
- (iii) the Subdivisional offices,
- (iv) the Judge's court,
- (v) the Munsifs' courts,
- (vi) the Sub-Registry offices,



- (vii) the police-stations and outposts,
- (viii) the railway stations,
- (ix) the principal market-places and ferry ghats,
- (x) post offices, and,
- (xi) such other public places (if any) as may be selected by the District Magistrate:

Provided that, in the case of by-laws framed by a local board, the draft and notice shall be posted at such of the places hereinbefore mentioned as lie within the subdivision over which the board has authority.

2. When posting up copies under rule 1, clause (ii) and clause (iii), a public proclamation shall be made, by beat of drum, at the district headquarters and at the subdivisional headquarters, where there are local boards' offices, notifying the fact that copies have been so posted up, and that the original is open to inspection in the office of the district board or the local board, as the case may be.

3. The notice referred to in rule 1 (a) shall allow a period of six weeks for objections or suggestions by the public in regard to the draft.

4. (1) When the draft by-laws are finally adopted by a district board or local board after considering all objections and suggestions received, they shall be forwarded for confirmation to the Commissioner, with the said objections and suggestions.

(2) By-laws made by a local board shall be forwarded to the Commissioner through the district board.

5. (1) When by-laws follow model by-laws approved by the Local Government, the Commissioner may confirm them without reference to that Government.

(2) When by-laws do not follow model by-laws approved by the Local Government, the Commissioner shall submit them to that Government for approval before confirmation.

6. Before confirming any by-laws, the Commissioner—

(a) shall publish them in the *Calcutta Gazette*, with a notice stating that they will be taken into consideration on or after a specified date (such date being not less than one month after such publication), and that any objection or suggestion received from any person before that date will be considered, and

(b) shall consider all objections and suggestions received before the said date.

7. When any by-laws have been confirmed by the Commissioner, he shall—

(1) publish them in the *Calcutta Gazette*, and

(2) cause them to be posted for a period of one month in English and in the vernacular of the district,—

(a) in the case of by-laws, made by a district board—at the office of the district board and at the offices of all local boards subordinate to the district board, and

(b) in the case of by-laws made by a local board—at the office of that board.

*Note.*—A copy each of the foregoing notification was sent to Commissioners under Bengal Government Nos. 765-71 T.—M., of the 7th September 1910.

**Model by-laws under sections 139 and 140 of Act III (B.C.) of 1885  
(Local Self-Government Act).**

*Ben. Munl. L.S.-G., Cir. No. 14 of 7-3-1910, to Comms.*

Section 139 of the Bengal Local Self-Government Act of 1885, as amended by section 61 of Bengal Act V of 1908, requires the confirmation by the Commissioner of the Division of any by-laws made by a district or local board for carrying out all or any of the purposes of the Act, reserving to the local Government a general power of control. It was explained in paragraph 5 of Mr. Oldham's circular No. 79 L.S.-G., dated the 4th December 1908, that the intention was that the adoption of any model rule or by-law by a district or local board should be sanctioned by the Commissioner of the Division without reference to Government, but that any modification or the adoption of any new rule or by-law should require the approval of the Local Government.

2. I am now to forward a set of model by-laws (not printed as they are incorporated in Collier's Local Self-Government Manual) which should be adopted as a standard in complying with the above orders. The by-laws in question have been drafted upon the lines of existing regulations governing the administration of different district boards, and it is possible that the enactment of all of them would not be desirable or necessary in the case of all boards. It is open to you to permit the omission of any of the model by-laws, which, in your opinion, are not required, and minor modifications of them need not be submitted to Government for orders; but proposals to add new by-laws or to depart materially from the model provisions should be submitted for scrutiny, in order that Government may exercise its power of control should such action appear to be called for.

3. Copies of the model by-laws should be communicated to all district boards, but it is not necessary that all existing regulations should be brought into conformity with them unless on general grounds it appears expedient to do so.

## **Bye-laws for Municipalities.**

### **Procedure for dealing with by-laws proposed by Municipal Commissioners.**

*Ben., Munl., Cir. No. 26M. of 15-7-1910, to Comms.*

It has been decided to revise the present procedure for dealing with by-laws proposed by Municipal Commissioners, under the Bengal Municipal Act, 1884. I forward a copy of the rules now made for the future guidance of all municipalities in this respect.

*Procedure to be followed in the making of by-laws under the Bengal Municipal Act, 1884.*

1. All proposed by-laws must first be considered and approved by the Commissioners at a special meeting under section 350 or section 350A, as the case may be, of the Act.

2. Notice of the intention to apply for confirmation of the proposed by-laws must be given as prescribed in sections 351 and 354.

4. The proposed by-laws, and the notice referred to in rule 2, must be translated, deposited, posted up and proclaimed as prescribed by section 354.

5. The proposed by-laws may then be submitted for confirmation, under section 351, to the Local Government, through the Commissioner of the Division.

6. The proposed by-laws (after such revision, if any, as the Local Government may consider necessary) will be published by the Local Government in draft in the *Calcutta Gazette*. Any objection or suggestion received within a month after such publication will be considered, and the by-laws as then approved and confirmed will be finally published in the gazette.

7. The by-laws as finally confirmed by the Local Government must also be translated, deposited, posted up and proclaimed within the municipality as prescribed in section 354 of the Act.

**Model by-laws for Municipalities.**

*Ben., Munl. Cir. No. 29M. of 12-8-1912, to Commrs.*

I am directed to forward for your information a set of model by-laws (not printed as they are incorporated in Collier's Municipal Manual) under section 350 of the Bengal Municipal Act, 1884, and to say that these by-laws supersede those circulated with Government circular No. 17M., dated the 20th March 1896. I am to request that copies may be communicated to the municipalities in your division to serve as a guide in framing or revising by-laws in future. Proposals to add new by-laws or to depart materially from the model provisions should be explained in submitting them for confirmation by Government under section 351 of the Act.

2. The by-laws have been revised upon the lines of existing regulations governing the administration of different municipalities, and it is possible that the enactment of all of them would not be desirable or necessary in the case of all municipalities. Nor is it necessary that all existing regulations should be brought into conformity with them unless on general grounds it appears expedient to do so.

## Carcasses.

### Removal of carcasses of animals from Government premises in Calcutta.

*Ben., Mun., Cir. Nos. 121-66 of 1-3-1920.*

I am directed to address you on the subject of the removal of carcasses of animals from Government premises in Calcutta. Under section 458 of the Calcutta Municipal Act, the occupier of any premises, in or upon which any animal dies or upon which any carcass of any animal is found, as well as the person in charge of the animal, is liable to remove the carcass or cause it to be removed to some place appointed by the Chairman of the Calcutta Corporation, or to report the death of the animal and to pay the removal fee.

2. It has been reported that recently Government officers have in several cases declined to pay the fees for the removal of carcasses of animals from land in their charge on the ground that no liability attaches to them as occupiers of the land but only to the owners of the carcasses, although in many such cases the owner of the animal could not be traced. It is presumed that the instances of refusal of payment referred to are due to misunderstanding or ignorance of the provisions of the law on the subject.

3. I am accordingly to request that you will be so good as to make known to the officers under you who occupy Government land in Calcutta that they are liable for payment of the prescribed fees (noted below) for the removal of carcasses of animals found on land in their occupation:

Carcasses weighing --

	Rs.
Below 1 maund	0 8
From 1 maund up to 2 maunds	1 8
Above 2 maunds	2 0

## Chairmen (District Boards).

### Election of non-official Chairmen of certain District Boards.

*Ben., Mun., Cir. Nos. 502-06 L.S.-G. of 26-2-1920, to Commrs.*

I am directed to say that the Governor in Council is pleased to direct under section 22 of the Local Self-Government Act that the Chairmen of the following District Board should be elected by the members of the Board from among their own number with effect from the 1st April 1920:—

Bankura, Birbhum, Hooghly, Howrah, Midnapore, Nadia, Dacca, Tippera, Rajshahi, Rangpur, Malda and Pabna.

I am to request that the District Boards concerned may be informed accordingly. They should also be informed that in holding the elections

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*Note.*—The privilege of electing their Chairmen was subsequently extended to all District Boards (except Darjeeling)—vide paragraph 156 of the General Administration Report for 1921-22.

the procedure laid down in this department notification No. F766L.S.G., dated the 20th July 1918, a copy of which was forwarded to you with endorsement Nos. 1767-71L.S.G. of the same date, should be followed. The result of the election should be reported to Government for approval.

**Government pleaders and public prosecutors may be elected as Chairmen of District Boards.**

*Ben., Mun., Nos. 565-69T. -L.S.-G. of 8-10-1920, to Comms.*

I am directed to refer to Government order No. 1141-45 L.S.-G., dated the 9th April 1920, regarding the election of non-official Chairmen of District Boards. Government pleaders and public prosecutors being then held to come within the category of officials, it was stated that Government would not approve their election as Chairmen.

2. The Government of India, with the sanction of the Secretary of State, have recently issued a rule to the effect that the holder of any office in the civil or military service of the Crown, if the office is one which does not involve both of the following incidents, viz., that the incumbent—

- (a) is a whole-time servant of Government; and
- (b) is remunerated either by salary or fees.

shall not be treated as an official for any of the purposes of Government of India Act. I am to request that the District Boards in your division may be informed that the Governor in Council has decided to adopt this definition in connection with the election of non-official Chairmen by District Boards.

**Government servants (except certain ministerial officers) not to vote in the election of an official Chairman of a District Board.**

*Ben., L.S.-G., Cir. Nos. 34-38L.S.-G. of 6-1-1923, to Comms.*

I am directed to invite a reference to Government's letter No. 392T.—L.S.-G., dated the 27th September 1922, in which the instructions contained in this department letter No. 4821M., dated the 8th September 1922\* were extended to the election of Chairmen of District Boards.

There has apparently been some misunderstanding as regards the latter circular, in the first paragraph of which by an oversight, a reference was made to "the Chairman" instead of "an official Chairman". The circular letter No. 4821M., dated the 8th September 1922, merely,

\*Printed as order No. 1711, post.

\*Printed as order No. 1709, post.

however, carried on and limited the application of the original orders issued under Government circular No. 1-5M., dated the 10th January 1919† in which it had been laid down that "when an official stands for election as a Municipal Chairman, all Government servants who are Municipal Commissioners should abstain from voting", and it was therefore implied that the circular of the 8th September 1922 also referred to the case of an official standing for election.

However, there appears to have been some misunderstanding, and I am to request that the words "an official Chairman" may be read for the words "the Chairman" in circular No. 4821M., dated the 8th September 1922.

2. It will follow that this interpretation will also be given to the circular of September 1922 in its application to District Boards.

**Attitude of Government towards the acceptance of office as Chairman of a District Board by a Government servant who is elected Chairman.**

*Ben., L.S.-G., No. 2151-53 L.S.-G. of 6-6-1927, to Comms.*

I am directed to inform you that the attitude of Government towards the acceptance of office as Chairman of a District Board by a Government servant, who is elected Chairman, is not fully understood and it appears desirable to state clearly the policy of Government in this matter.

2. There is no legal bar preventing any member of a District Board, including a Government servant, from being elected Chairman, but Government have under section 22 of the Local Self-Government Act, the power to withhold approval should the members make an unsuitable choice.

3. The Governor, acting with the Minister for Local Self-Government, wishes to make it clear that, should an official be elected Chairman of a District Board, ordinarily, approval to such an election will not be granted. As, however, it is not desirable to fetter absolutely the choice of District Boards, approval may be accorded when the circumstances are exceptional, e.g., when the members of a District Board are practically unanimous and when the official is particularly well-fitted for the post and is able to do full justice to it without detriment to his official duties.

In addition it should be noted that no Government servant should become a candidate for election as Chairman of a District Board without obtaining the approval of his immediate official superior.

4. It has been decided also the eligibility of Government pleaders and Public Prosecutors shall be subject to the same conditions.

Government Pleaders and Public Prosecutors were in Local Self-Government letter Nos. 1141-1145, dated the 9th April 1920, classed as officials whose election would not be approved by Government. Subsequently in letter Nos. 565-569T., dated the 8th October 1920, they were classed as non-officials and their election as chairman approved. In future, however, the policy laid down in paragraph 3 above will be followed in regard to Public Prosecutors and Government Pleaders. Their election will not ordinarily be approved except in the special circumstances set forth and they should not become candidates without obtaining the approval of the District Magistrate or Collector.

*Ben., L.S.-G., Nos. 290-94 T.—L.S.-G., of 12-10-1927, to Commrs.*

I am directed to invite a reference to Mr. Dash's circular Nos. 2151-2155 L.S.-G. dated 6th June 1927, explaining the attitude of Government towards the acceptance of office as chairman of a district board by a Government servant. In paragraph 4 of that letter it was stated that the eligibility of Government Pleaders and Public Prosecutors would be subject to the same conditions as that of whole-time salaried officials.

2. It has now been decided that so far as Government Pleaders and Public Prosecutors are concerned Government will not insist on the condition that the members of the district board should be practically unanimous. Government are prepared to approve such elections even if the successful candidate for the chairmanship has been elected by a bare majority only. Approval will however be withheld if the other conditions are not fulfilled, i.e., if the gentleman in question is not particularly well-fitted for the post and is unable to do full justice to it without detriment to his official duties. A Government Pleader or a Public Prosecutor will further have to obtain the approval of the Magistrate-Collector before becoming a candidate for the chairmanship.

3. It is obvious that in this respect no distinction should be drawn between district boards and municipalities. I am therefore to add that the circular Nos. 2151-2155 L.S.-G., of 6th June 1927 as modified in the present circular states the attitude of Government towards the acceptance of office by a Government servant or by a Government Pleader or Public Prosecutor who is elected chairman of a municipality.

### **Chairmen (Municipalities).**

**Government servants (except certain ministerial officers) who are Municipal Commissioners to abstain from voting when an official stands for election as Chairman of a Municipality.**

*Ben., Mun., Cir. No. 1-5M. of 10-1-1919, to Commrs.*

In paragraph 3 of Government Circular No. 10T—M., dated the 24th October 1916, instructions were issued by Government that District and Subdivisional Officers should not be allowed to stand for election as chairman of municipalities; but no such restriction was imposed on other Government officers.

The Government of India have since laid down in paragraph 7 of their resolution, dated the 16th May 1918 (copy enclosed), the principle that when an official is elected to be a chairman of a municipality, his election should be by a majority of the non-official votes. The Governor in Council accepts this principle and accordingly directs that when an official stands for election as municipal chairman, all Government servants who are Municipal Commissioners should absent from voting.

*Extract paragraph 7 of the Government of India resolution, dated the 16th May 1918.*

7. *Elected Chairmen in municipalities.*—In dealing with the appointment of chairmen in municipalities, the Decentralization Commission desired that the municipal chairmen should ordinarily be elected

non-officials, that Government officers should not be allowed to stand for election and that if a nominated chairman was required, an official should be selected. The Government of India in their resolution of 1915 accepted this view, subject to the qualification that in special cases in which it was necessary to nominate the chairman (election being the ordinary method) discretion should be reserved to local Governments to nominate non-officials as well as officials, and subject also to the further condition that although boards should not be absolutely prohibited from electing officials, the election of an official should be a special matter requiring confirmation by the Commissioner or by some higher authority. It may be roughly laid down that at the present time one-third of the chairmen in municipalities in India are nominated officials, one-third are elected officials and one-third are elected non-officials, but certain local Governments have latterly evinced a desire to increase the proportion of elected non-official chairmen within their respective areas. The Government of India accept the proposals of the Decentralization Commission as qualified by the resolution of 1915 on the understanding that when an official is elected to be a chairman, the election should be by a majority of the non-official votes. In certain provinces, such as Burma and the United Provinces, it is already the ordinary practice for municipalities to elect their chairmen. In others as in Bihar and Orissa and the Punjab, efforts have been made of recent years, but have not always met with the consent of the municipalities concerned, to increase the number of elected chairmen. In others, as in Bengal and Bombay, the principle of election has in practice been extended and further extensions have been seriously considered. The Government of India trust that the principles which they have laid down above will commend themselves to local Government, and they hope that under the arrangement now prescribed there will be a general replacement of nominated official chairmen of municipalities by elected non-officials, though municipalities should be able to elect an official as chairman, or if they so desire, to ask the Government to nominate a chairman.

*Ben., L.S.-G., Nos. 1934-1938M., of 24-4-1922, to Commrs.*

In this department circular No. 1-5M., dated the 10th January 1919, it was laid down that when an official stands for election as Municipal Chairman, all Government servants who are Municipal Commissioners should abstain from voting. It has been pointed out to Government that the terms of the circular required some modification since there would appear to be no reason why a Government ministerial officer, who has been elected as a Municipal Commissioner, should not exercise his right to vote at the election of a Chairman. The Minister for Local Self-Government therefore directs that this circular should not apply to ministerial officers who have been elected to a municipal board.

*Ben., L.S.-G., No. 4821M., of 8-9-1922, to Commr., Presy.*

With reference to your letter No. 1121M., dated the 11th August 1922, and enclosures, regarding the right of a ministerial officer, nominated as a Municipal Commissioner to vote at the election of [an official Chairman]\*. I am directed to point out that the original orders in circular No. 1-5M., dated the 10th January 1919, were intended to provide for the Chairman being elected by a majority of the elected Commissioners.

\*The words in square brackets were substituted for the word "Chairman" by Government order No. 34-38 L. S.-G., dated the 6th January 1923 (see order No. 1703), to Commissioners.



Obviously orders on this subject have never had legal force, but Government has always expected that Government officers nominated to these Boards should conform with the wishes of Government in a matter of this kind and abstain from voting, as they accept nomination by Government with the knowledge that their freedom of action is limited in this matter. The president of the meeting, however, has clearly no power to prevent them from exercising their rights as members of the Board if they choose to do so.

Government still desires that all *nominated* Government officers—ministerial and gazetted—should conform to these orders, but in the case of ministerial officers, who have been elected by a popular suffrage to the Board, Government are of opinion that there is no justification for attempting by executive order to fetter their discretion.

Memo. by—The Assistant Secretary to the Government of Bengal, Local Self-Government Department.

Copy forwarded to all Commissioners of Divisions (except Presidency Commissioner) for information.

**Validity of the work done by an elected Chairman whose election is eventually set aside on account of irregularity in his election.**

*Para. 4 of Ben., Mun. No. 2115M. of 27-6-1925, to Commr., Rajshahi.*

Government have been advised (by the Legal Remembrancer) that section 26 of the Bengal Municipal Act should not be construed in such a way as would render nugatory all the work done in municipalities and municipal meetings, during the time when a Chairman held office whose election was eventually set aside because of an irregularity in the election.

#### **Removal of Chairman of a municipality.**

*Ben., Mun., order No. 2147 M. of the 21st March 1935, to Presidency Commr.*

With reference to your letter No. 411 M., dated the 8th March 1935, and subsequent letter No. 446 M., dated the 12th March 1935, in connection with the removal of the Chairman of the South Suburban Municipality, I am directed to say that Government are advised that the expression "whole number of commissioners" in section 61 (2) of the Bengal Municipal Act, 1932, clearly means the number of commissioners notified for a particular municipality under section 15 (1) of the Act. The resolution passed under section 61 (2) of the Act, by the commissioners of the South Suburban Municipality at their special meeting held on the 20th February 1935, removing the Chairman from office, has, therefore, no legal force as it was supported by only 6 out of 12 commissioners fixed for the municipality and not by two-thirds of the whole number of commissioners.

### **Procedure for submitting resignation by a Chairman of a municipality.**

*Ben., Mun., order No. 2481 M. of the 6th April 1935, to Commr.,  
Burdwan.*

I am directed to refer to the correspondence resting with your memorandum No. 540 M., dated the 30th March 1935, regarding the supersession of the Arambagh Municipality and to say that the letter, dated the 27th March 1935, addressed by the Chairman of the municipality to the municipal commissioners of Arambagh and forwarded with your memorandum under reference, is not a letter of resignation within the meaning of section 60 of the Bengal Municipal Act, 1932. I am, however, to forward herewith in original a letter, dated the 26th March 1935, addressed by the Chairman to the Hon'ble Minister-in-charge of Local Self-Government tendering resignation of his offices both of Chairman as well as of a commissioner of the municipality. The resignation in either case cannot, however, be accepted by Government as under sub-sections (2) and (3) of section 60, the resignation of an elected Chairman or of a commissioner is to be notified to the municipal commissioners who alone, under sub-section (4) of that section, are competent to accept such resignation at a meeting. I am accordingly to request that the Chairman should be advised that if he wishes to resign he should comply with the provisions of section 60 of the Act. As soon as the resignation is properly tendered by the Chairman and accepted by the commissioners at a meeting, the Vice-Chairman will be competent to transact all business pending the election of another person as Chairman under section 45(2) read with section 58(2) of the Act.

2. I am to add that if the Chairman actually resigns in the manner indicated above, Government do not consider that there would be any further necessity for supersession of the municipality.

### **Question of sanctioning leave to a Municipal Chairman.**

*Ben., Mun., order No. 184 T. M. of the 23rd May 1935, to Commr.,  
Presidency.*

I am directed to refer to your letter No. 690 M., dated the 18th April 1935, asking for the sanction of Government to the grant of leave for seven and a half months to the Chairman of the Bhatpara municipality. Government are advised that the proper procedure for the municipal commissioners would be to grant three months' leave under section 55 (1) of the Bengal Municipal Act, 1932, and then to move Government to extend the period up to 7 months and a half under section 55 (2). I am accordingly to request you to be so good as to ask the municipal commissioners of Bhatpara to pass a formal resolution at a meeting granting leave of absence to their Chairman for a period of three months and then to move Government to extend the period as instructed above.

I am also to observe that the temporary Chairman to be elected under section 45 (2) of the Act will continue to act, till the permanent Chairman returns after the full period.

**Resignation of a Chairman who was an ex-officio Commissioner of a municipality and its after effect in the election of Chairman.**

*Ben., Mun., order No. 2532M. of the 9-4-1935, to Commr., Presidency.*

I am directed to refer to your letter No. 162 M., dated the 25th January 1935, regarding the vacancy in the office of the Chairman of the Kanchrapara Municipality since the resignation tendered by Mr. G. Thomson on and from the 5th February 1934. It appears that Mr. Thomson, the Deputy Chief Mechanical Engineer (Shops), Eastern Bengal Railway, Kanchrapara, was appointed as an ex-officio commissioner of the Kanchrapara Municipality. He was also appointed as Chairman of the municipality by name. The successors of Mr. Thomson as Deputy Chief Mechanical Engineer (Shops), Eastern Bengal Railway, became automatically ex-officio commissioner of the Kanchrapara Municipality and through some misunderstanding they assumed the office of Chairman also.

As the proceeding of the municipality under the Chairmanship of the successors of Mr. Thomson, who had no legal status, appeared to be *ultra vires*, you proposed to appoint them as Chairman for the periods in question.

In reply I am to say that there was a vacancy or defect in the constitution of the municipality. Government are, however, advised that this vacancy or defect comes within the meaning of section 92 of the Bengal Municipal Act, 1932, and that no act or proceeding of the municipality can be questioned on that ground.

Government are further advised that retrospective effect cannot be given to section 46 (I) of the Act and that the best course in the circumstances would be to let things remain where they are.

## **Chaukidars.**

### **Taking away of Chowkidars from their beats.**

*Ben., Cir., Nos. 2641-2645 L.S.-G., of 26-9-1938, to Commrs.*

I am directed to say that it has been brought to the notice of Government that chaukidars of union boards are sometimes taken away from their beats by the vaccinators, sub-overseers and other officers of local bodies for miscellaneous work in contravention of rule 37 of the rules regarding the control, appointment, discipline, etc., of dafadars and chaukidars, published in Police Department notification No. 2197-P.J., dated the 21st May 1920. As the duties of these men of the rural police as laid down in the rules contained in the Union Board Manuals, Volume I and Volume II, are in themselves of a strenuous character, Government are strongly of opinion that they should not be required by any one to do any work except as prescribed in the rules.

I am, therefore, to request you to be so good as to impress upon the Chairmen of the District Boards in your Division the necessity of strict compliance with the above rule, a breach of which should be followed up by disciplinary action against any one violating it.

*Memo. No. 2646 L.S.-G., dated Calcutta, the 26th September 1938.*

Copy forwarded to the Home (Police) Department of this Government for information.

## **Civil Works.**

### **Adjustment of expenditure incurred in connection with Imperial and Provincial Civil Work executed by District Boards.**

*Ben., Mun. (L.S.-G.), No. 715 and Cir. No. 11 T.—M. of 22-5-1905, to Commsr.*

I am directed to acknowledge the receipt of your letter\* No. 292-L.S.-G., dated the 20th April 1905, in which you refer for the orders of Government the question how the 15 per cent. contribution for the execution of Provincial works should be shown in the District Board accounts. You state that the Superintending Engineer, Western Circle, has objected to the practice by which the contribution is shown as a minus entry on the expenditure side of the budget on the ground that the real state of the finances of the Board is not correctly represented. On the other hand the Accountant-General in a Note, a copy of which you enclose expresses the opinion that the existing practice is correct, and should be adhered to. You ask for an authoritative ruling in the matter.

2. In reply, I am to say that the view of the Accountant-General is correct, and that the contribution should be shown as a minus entry on the expenditure side of the budget. This ruling should be communicated to the District Boards in your Division.

### **Recommendations of the Public Works Department Re-organisation Committee.**

*Ben., Mun. Cir. Nos. 408—12 L.S.-G. of 19-8-1919, to Commsr.*

I am directed to address you regarding the recommendations made by the Public Works Department Re-organization Committee in Chapter IV of their Report for the further encouragement of private enterprise in regard to the execution of works.

2. In paragraph 24 of their Report, a description is given of the methods at present adopted for the execution of works and after a discussion of the arguments for and against the piece-work system, they proceed in paragraph 26 to make two recommendations: First that tenders should be invited for complete works, and secondly, that the lump sum contract system should be more generally employed. The main objects of these recommendations are to encourage local industries, to foster private enterprise on the part of contractors and to help the gradual formation of a regular contracting agency. The Governor in Council is in complete agreement with these objects, and I am accordingly to request that the recommendations may be commended to the

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\*To Commissioner, Burdwan.

notice of local bodies in your division. Government have already issued orders directing that the instructions referred to above should be observed in the Public Works Department.

3. It is obvious that the introduction of the lump sum contract system would relieve officers of local bodies of much of the measurement, petty bill and detailed accounts work which occupy so much time under the present system, and would so far be a most desirable innovation; I am to point out that where road work is being done, the measurement of work will probably be no less essential under the lump sum contract system than under the piece-work system. There is a danger of overseers being less thorough in their examination of the completed work under the former system than under the latter, for they will not be required to write up a measurement book and in their completion certificates they may bring themselves to certify that a work is done according to contract, where in writing up a measurement book they would have been constrained to make deductions from a bill. In these circumstances local bodies may have reasons for preferring to retain the piece-work system in road maintenance work.

4. I am also to invite your attention to the fact that calls for tenders do not appear to be uniformly and widely advertised by local bodies and to say that the desirability of open advertisement should be impressed upon them.

## Collections.

### Improvement of municipal collections by grant of bonuses to tax-collectors.

*Rev., Mun., Cir. No. 11T—M., of 30-5-1903, to Commrs., as modified by Cir. No. 26M., of 4-8-1903, and Cir. No. 3M., of 14-1-1905.*

In continuation of Government Circular No. 17T.—M., dated the 16th September 1902, in which your opinion was invited on the subject of a proposal to stimulate municipal collections by the grant of bonuses to the tax-darogas and accountants of Municipalities, I am directed to say that, after considering the various opinions expressed in response to that Circular the Lieutenant-Governor approves of the procedure in force in the Presidency Division, by which rewards and punishments are regulated by the percentage of collections attained in each Municipality.

2. The system in question was first tried in the Municipalities in the Presidency Division, in 1898, at the instance of the Hon'ble Mr. C. E. Buckland, then Commissioner of the Division. An account of it is given in paragraph 5 of his Circular No. 21M., of the 8th July 1898, of which a copy is appended to this letter. It will be seen that no grant or bonus is allowed to the accountant of Municipality, as the responsibility for the actual work of collection does not rest with him.

3. I am directed to recommend that these rules may be adopted experimentally, and subject in each case to your sanction, by the Municipalities in your Division. Until the scheme passes beyond the stage of experiment, I am to suggest that its working may be noted in your Annual Report of Municipal Administration.

*Circular No. 21, dated the 8th July 1898, from the Commissioner of the Presidency Division, to Magistrates.*

It will be within your recollection that, in my Circular No. 46M., dated the 3rd March 1898, certain instructions were issued with a view to the improvement of the collections of the Municipalities in the Division. I regret to find from correspondence, and from enquiries made on tour, that the Circular seems to have been differently understood in different offices: it also appears to require amendment in some respects. I think that it will be a simpler and clearer course if instead of recapitulating and correcting the orders previously issued, I now lay down the procedure to be adopted in future.

2. For some time past it has constantly been represented to me, and come otherwise to my notice, that great difficulties have arisen in some Municipalities, with regard to the working of the system of collection by commission on the collections. I need not dwell on the cases of the failure of the system, though I am inclined to think that a genuine effort has not been made in all cases to ensure its success. I have at any rate, come to the conclusion that, as a matter of practical administration, it will be advisable not to insist on the enforcement of the system of collection of municipal taxes by commission (as compared with the system of fixed payment of salary to tax-collectors). I am willing, therefore, to allow Municipalities to apply for a modification of the system of collection by commission, and to entertain such applications when supported by the District Magistrates. As the year 1898-99 has not far advanced, there is no objection to changes being introduced forthwith, when applied for, supported and sanctioned.

3. Whichever system is adopted, it is essential that the rules issued by Government, under notification No. 5472M., dated 13th December 1897, should be strictly observed. One of the most important of them is Rule 57 of Appendix A. This lays down that—

- (a) (read with Rule 42) the bills must be presented by the end of the first month of a quarter;
- (b) notices of the demand must be served not later than the first day of the second month of the quarter;
- (c) warrants must be issued by the sixteenth day of the second month of the quarter.

The Rule admits of the tax-daroga getting the warrant served through the sarkars (Rule 58), and he will have ample time to get this done between the sixteenth day of the second month and the end of the third month of the quarter. Where the commission system is continued after the issue of this Circular, the tax-collector can calculate and draw his commissions on all collections made by him, and the sarkars, whether by warrants or otherwise, during the quarter.

4. When the system of collection by commission is in force, and a quarter has come to a close, all the unpaid bills must be handed over by the tax-collector to the head clerk, who will have charge of them, prepare warrants, and make them over to bailiffs for service. All bailiffs are to be paid out of the warrant fees realised. The Vice-Chairman should be held responsible for the bailiffs working properly. The bailiffs should be required to keep daily register of collections in Form I.

All collections made by the bailiffs are to be paid to the cashier; the receipts for municipal collections checked by the head clerk and accountant.

5. If a Municipality, with the approval of the District Officer, desires to revert to the system of fixed pay to the Collecting Department, my sanction to the proposed establishment will be required. Whichever system is finally established, it is my duty to look to the results. In several Municipalities in this Division, the percentage of collections on the demand has been deplorably low, and I see no other alternative but to hold the tax-collector responsible for the result. It seems to me that the best way of enforcing some responsibility is to establish a system of a sliding scale of punishments and rewards. I have to request therefore that you will see that—

- (a) where the total collections\* of the year do not amount to 80 per cent. on the total demand, the tax-collector is to be fined a month's pay;†
- (b) where they do not amount to 90 per cent.,\* he is to be fined half a month's pay;†
- (c) where they amount to 90—95 per cent., he is to be neither punished nor rewarded;
- (d) where they amount to over 95 per cent.,\* he is to receive a reward of half a month's pay.†
- (e) where they amount to 98 per cent. and over, he is to receive a reward of a month's pay.†

6. I trust that these instructions will be found clear, and will have the result of improving municipal collections.

*Ben., Mun., Cir. No. 3M. of 14-1-1905, to Commrs.*

Later the Circular below issued by the Commissioner of the Presidency Division was forwarded to other Commissioners for information and guidance.

*Circular No. 47M., dated 16th December 1904, from the Commissioner of the Presidency Division, to Magistrates.*

It has been brought to my notice that in some Municipalities Mr. Buckland's Circular No. 21M., dated the 8th July 1898, which lays down a sliding scale of punishments and rewards for bad and good collection of Municipal taxes has been incorrectly interpreted. The intention was to determine the rewards, etc., on the collections made by the tax-collector, such as the tax on persons occupying holdings, the rate on the annual value of holdings, latrine rate, lighting rate, and the water rate, and not on the miscellaneous collections with which he is not concerned, as the tax on animals and vehicles, tax on professions and trades, tolls on roads and ferries, and miscellaneous receipts and penalties.

\*As shown in the Taxation Report, Form L, prescribed in Rule 54 of Appendix A to the Account Rules.

†Or average monthly commission where the commission system is in force.

2. The mistake has arisen in consequence of the foot-note which was added to Circular No. 21M., of the 8th July 1898, but this addition was in order to make it clear that the calculation should be made on the gross demand and not on the net demand, after excluding irrecoverable amounts for which remission have been granted.

3. In most Municipalities the percentage of collection has been calculated according to the results shown in the Taxation Report, Form L, prescribed in Rule 54 of Appendix A to the Account Rules. This method should invariably be observed in future, and I have the honour to request that you will cause the following foot-note\* to be inserted in the place of the first foot-note to this Office Circular No. 21M., dated the 8th July 1898.

*Ben., Mun., Cir. No. 4T.—M. of 30-9-1908, to Comms.*

Subsequently, the Bengal Government directed the extension to collecting sarkars in the Municipalities in all Divisions, of the system of granting bonuses as rewards for good collections, which was sanctioned in the case of tax-darogas in Government Circular No. 11T.—M., dated the 30th May 1903.

*Ben., Mun., 873-78M. of 8-4-1915, to Comms., etc.*

I am directed to invite a reference to paragraph 4 of your No. 199M., dated the 21st December 1914. From the copies of correspondence enclosed with your letter it appears that the Examiner of Local Accounts has raised an objection to certain rewards paid by the North Barrackpore Municipality to their collecting staff on the ground that they have not been made in strict accordance with the rules circulated with Government circular No. 11T.—M., dated the 30th May 1903. You enquire whether the sanction of Government to the payment of these rewards is necessary.

2. In reply, I am to say that the sanction of Government is not required. The power to reward and punish members of their staffs rests with the Municipal Commissioners themselves. The Governor in Council is of opinion that Municipal Commissioners are fully competent to exercise this power, and does not desire to fetter their discretion in the matter. The circular quoted by you and all subsequent order to Government on this subject should be interpreted as indicating the general approval of Government to a system such as is described therein, but not as imposing on any municipality an obligation to adopt such scheme in its entirety.

3. In this connection I am desired to point out that any rules on this subject made under section 351A of the Bengal Municipal Act would require the sanction of Government.

*Extract from a letter from the Commissioner of the Presidency Division, to the Secretary to the Government of Bengal, General Department, No. 199M., dated the 21st December 1914.*

4. In this connection, I would bring to notice that the Government Circular No. 11T.—M., dated the 30th May 1903, quoted in your letter, did not definitely prescribe rules but recommended certain rules, for



adoption, experimentally. A subsequent Government circular No. 4 T.—M., dated the 30th September 1908, directed "the extension to collecting sarkars in the municipalities of all divisions of the system of granting bonuses as rewards for good collections, which was sanctioned in the case of tax-darogas in Government circular No. 11T.—M., dated the 30th May 1903". It appears that certain audit officers have interpreted the rules referred to in the circular of the 30th May 1903 as being strictly binding on all municipalities, and have raised objection to rewards given by municipalities, to their collecting staff otherwise than in strict accordance with those rules. I enclose copies of correspondence which I have had with the Accountant-General on the subject of rewards paid by the North Barrackpore Municipality to their tax-daroga and two sarkars for good collections during the year 1911-12 and would ask to be favoured with the orders of Government as to whether Government sanction for the payment of the rewards in question is necessary.

### **Commissioners (Municipal).**

#### **Propriety of a pleader who is a Municipal Commissioner appearing in a case against the Municipality.**

*Ben., Mun., No. 1805 of 28-3-1899, to Commr., Bhagalpur.*

The Bengal Government agreed with the Commissioner of the Bhagalpur Division that it was improper for a pleader, who was a Municipal Commissioner, to appear in a case against the Municipality of which he was a Commissioner.

*Note.*—See also Order No. 1788, printed *post*.

#### **Record of good work done by Municipal Commissioners.**

*Ben., Mun., Cir. No. 7T.—M. of 4-5-1904, to Commrs.*

It has been suggested to the Lieutenant-Governor that a permanent record of good work done by members of Municipal Committees should be kept, in order to enable the local officers to bring to the notice of Government the names of individuals who continuously and consistently do good work, and may on that account merit the approval and recognition of the Government.

2. I am therefore directed to say that in order to secure this object, District Magistrates and Commissioners of Divisions should, at the time of their inspection of a Municipality, enter in their inspection notes the names of those municipal members who have since the date of the last inspection done especially good work, and should record briefly the nature of their services. A copy of these remarks for the whole division should be kept in a roll in the office of the Divisional Commissioner, and for each district in the office of the District Magistrate. In their Annual Reports on the working of Municipalities, Commissioners and District Magistrates should mention the names of those members of the Municipal Committees whose services have been particularly meritorious.

3. Commissioners and District Magistrates should keep their eye on this roll, and encourage Municipal Commissioners by praise and friendly exhortation to give attention to their duties. The Municipal Commissioners should be made to realise that not only their attendance at meetings but also the assistance they render in executive work is appreciated by Government and its officers.

*Note.*—As regards members of District and Local Boards, see order No. 1844, printed post.

### **Nominations for appointment as Municipal Commissioners after a general municipal election.**

*Ben., L.S.-G., Nos. 323-27 L.S.-G. of 14-6-1921, to Commrs.*

The attention of Government (Ministry of Local Self-Government) has been drawn to the delay, that frequently occurs after a general municipal election in the submission of nominations for appointment of Municipal Commissioners, as a result of which the constitution of new Municipal Boards is unduly delayed. I am, therefore, directed to say that in future your recommendations for the appointment of Commissioners under section 14 of the Bengal Municipal Act, 111 of 1884, should reach Government within 14 days at the latest after a general election.

### **Filling up of casual vacancies on Municipal Boards.**

*Ben., L.S.-G., Nos. 3509-3513 L.S.-G. of 4-8-1921, to Commrs.*

In continuation of this department Circular Nos. 323-27-T., L.S.-G., dated the 14th June 1921, regarding the submission of nominations for the appointment of Municipal Commissioners under section 14 of the Bengal Municipal Act, I am directed to say that in future nominations to fill up casual vacancies on Municipal Boards under section 27 of the Act should be submitted to Government within one month from the date of the vacancy.

### **Removal of municipal commissioners.**

*Ben., Mun., Nos. 3537-3541M., of 28-7-1937, to Commrs.*

I am directed to refer to this department notification No. 3530M., dated the 28th May 1937, delegating certain powers of the Local Government to Commissioners of Divisions, in connection with the removal of a municipal commissioner under section 62 of the Bengal Municipal Act, 1932, and to request that in exercising their powers the following procedure should be observed by the Commissioners of Divisions:—

On receipt of a complaint against a municipal commissioner the substance of the allegations should be reduced in writing to the form of a charge and served upon the municipal commissioner concerned informing him at the same time that the enquiring officer (i.e., the Commissioner of the Division) will, on the date fixed by him, consider

any cause which the municipal commissioner may wish to show against his removal. In a case under section 62(2)(f), the enquiring officer shall also consider whether the municipal commissioner in question had any reasonable cause for default in the payment of arrear rates and taxes.

In holding the enquiry the municipal commissioner should be asked whether he wishes to be heard and he should be allowed to cross-examine the witnesses. On the date fixed for dealing with the matter, evidence should be taken, if necessary, on behalf of the municipality and also on behalf of the commissioner concerned. The enquiring officer shall then arrive at clear findings on the allegations against the commissioner and forward the same to Government for final orders under section 62.

I am to explain that an opportunity of being heard before removal shall be given under sub-section (3) of section 62 to the municipal commissioner concerned in all cases coming under the purview of sub-section (1) or any of the clauses of sub-section (2) of section 62 of the Act.

*Ben., Mun., No. 487M., of 9-2-1938, to Commr., Presidency.*

In forwarding herewith a copy of representation, dated the 26th July 1937, from M. Murtaza Hossain and Md. Hakim of Alam Bazar regarding the resignation by Mr. Hafiz Aminuddin of his office as commissioner of the Barranagore municipality, I am directed to say that Government are advised that a commissioner who has tendered his resignation does not vacate his office until his resignation has been accepted. But though his resignation does not become effective until it is accepted, he cannot withdraw his resignation after it has once been tendered. The municipal commissioners therefore were not guilty of any illegal act, when they refused him permission to withdraw it and accepted it. In view of the legal position as stated above, Mr. Hafiz Aminuddin must be deemed to have vacated his office from the date of acceptance of his resignation. I am to say that in the circumstances stated above Government have nothing to do in this matter. The petitioners may be informed accordingly.

*Memo. Nos. 488-491M., dated Calcutta, the 9th February 1938.*

Copy forwarded to all Commissioners of Divisions, except Presidency Division, for information and guidance.

## Compensation.

**Compensation to be paid by Railways for roads, trees and land.**

*Ben., Mun. (L.S.-G.), Cir. No. 146M. of 12-12-1898, to Commrs.*

The Bengal Government circulated copies of correspondence on the subject of the compensation to be paid by Railways for roads, trees and land.

*Letter No. 289L., dated the 12th March 1898, from the Junior Consulting Engineer to the Government of India for Railways, Nagpur, to Government of Bengal.*

With reference to your letter No. 4T.—R., dated 18th July 1891, and enclosures, I have the honour to submit copy of a letter No. 1897, dated 11th instant, from the Agent and Chief Engineer, Bengal-Nagpur Railway, for favour of an expression of opinion and the issue of such orders as may be considered necessary in connection with the points raised—

*Letter No. 1897, dated 11th March 1898, from the Agent and Chief Engineer, Bengal-Nagpur Railway, to the Junior Consulting Engineer to the Government of India for Railways, Nagpur.*

In accordance with the orders of the Bengal Government, contained in paragraph 2 of their No. 4T.—R., dated 18th July 1891 (copy received with your No. 1776C., dated 17th October 1891), lands owned by Government are made over for the railway free of cost.

Enquiries have been made of the several land acquisition officers as to whether any payments have been made in contravention of the above orders and from the replies received, it appears that certain small sums have been paid to the Public Works Department and District Boards for cost of roads and compensation for trees, and to the Irrigation Branch for land.

As the railway bears the cost of diversions of roads, it should not pay anything for the land occupied by the old road or compensation for trees.

As regards land in the occupation of the Irrigation Department I think this also should be handed over free, unless the taking over of the land necessitates further expense to the Irrigation Department; for instance, in the case where the railway crosses a canal, nothing should be paid for the canal land, as the railway causes no expense to the department and has to provide such facilities as are necessary for the working of the canal; but if, however, the construction of the railway necessitated the demolition of house or huts of the Irrigation Department, and which houses or huts had to be rebuilt elsewhere, then the railway should bear the cost of such rebuilding.

There is also land belonging to the police, but this apparently is land granted to old officers, etc., of the Police Department, and should apparently be paid for, unless Government can allot other land, and even in this case compensation for disturbance would appear to be payable.

On the above points I have the honour to request that the orders of the Government of Bengal may be obtained so as to get the matter settled.

*Letter No. 1474R., dated the 11th November 1898, from the Government of Bengal, Railway Department, to the Junior Consulting Engineer to the Government of India for Railways, Nagpur.*

I am directed to reply to your letter No. 289L. of the 12th March 1898, on the subject of compensation paid by the Bengal-Nagpur Railway to the Public Works Department and District Boards, for roads, trees and land.

2. In reply, I am directed to say that in any such cases in which land may be acquired in future, it is considered right that the Railway Company should replace the department or the District Board concerned in the same pecuniary position in which it was before the acquisition of the land. It is not thought necessary to make any adjustment with regard to payments that have been actually made in the past.

3. The result of applying this principle to the cases cited by the Agent, Bengal-Nagpur Railway, in the enclosure to your letter under reply, will be that where the Railway Company bears the cost of diverting a road, it will not pay for the land occupied by the existing road; but as it is unable to place ready-grown trees on the substituted road, the value of those acquired with the old road should be paid.

4. Similarly, where land in the occupation of the Irrigation Department, is acquired, no compensation should be paid unless that department is put to expense owing to alteration of any nature having to be carried out.

5. Regarding land occupied by certain Police officers, unless other land is substituted, compensation is clearly payable by the Company, and in any case compensation for property on the land acquired.

#### **Contribution of local bodies to the funds of recognised associations.**

*Ben., L.S.-G., Cir. Nos. 4182-4186 L.S.-G. of the 5-7-1937, to Commr.*

I am directed to invite a reference to section 3 of the Bengal Local Self-Government Associations (Recognition) Act, 1936 (Bengal Act XVI of 1936), which authorises local bodies, viz., the Calcutta Corporation, mufassal municipalities, district boards and union boards to pay contributions from their respective funds to the funds of an association which is, for the time being, recognised by the Local Government under section 2 of the Act.

2. Union Board Associations have now been established in almost every district and, under the rules of these associations, union boards are required to pay certain subscriptions in order to become members of these bodies. Certain Union Board Associations were recognised by Government in the past as interested in questions concerning village self-government; but, in view of the provisions of section 3 of the new Act, referred to above, no contribution can legally be paid by the union boards to Union Board Associations unless these associations are formally recognised by Government under section 2 of the Act. I am to request that the union boards as well as the Union Board Associations in your division may be informed accordingly and that the latter may be requested to offer themselves for recognition by Government so that the union boards may be in a position to contribute to the funds of these associations after they have been duly recognised.

#### **Payment of contribution by local bodies to Union Board Associations.**

*Ben., L.S.-G., No. 330 L.S.-G., of 20-1-1938, to Commr., Rajshahi.*

I am directed to enclose herewith a copy of a letter No. 401, dated the 6th December 1937, from the Secretary, Thakurgaon Union Board

**Association, on the question of payment by the union boards of the Thakurgaon subdivision of their promised contributions towards the construction of the office building of the Association, and to say that all contributions which a local authority is competent to make to associations interested in the administration of local self-government in Bengal are now governed by the provisions of the Bengal Local Self-Government Associations (Recognition) Act, 1936, and the rules made thereunder. Rule 1 of the rules made under section 5 of the Act and published with notification No. 1254 L.S.-G., dated the 9th March 1937, prescribes the maximum amount of annual contribution, which may be paid by the different classes of local authorities, mentioned therein, to the fund of an association recognised by Government under section 2 of the Act. The union boards, the average annual income of which is generally below Rs. 20,000, would ordinarily come under the last category of local authorities mentioned in the rules and so they cannot, under the law, pay any contribution exceeding Rs. 15 per annum.**

2. In view of the legal position as stated above, I am to say that it would be *ultra vires* on the part of the union boards of the Thakurgaon subdivision to pay the promised contribution of Rs. 200 each towards the construction of the Union Board Association building and that Government cannot, under the law, agree to the payment of any contribution by the union board over and above the prescribed maximum.

I am also to invite a reference to this department circular Nos. 4182-4186 L.S.-G., dated the 5th July 1937, and to point out that no proposal for the recognition of the Thakurgaon Union Board Association under section 2 of the Bengal Local Self-Government Associations (Recognition) Act, 1936, has yet been submitted to Government and that, until the Association is formally recognised by Government under the above section, no contribution can be paid to it by the union boards under section 3 of the Act.

3. As regards the general question of payment of contributions by union boards for the construction of buildings for Union Board Associations, I am to say that Government consider that the union boards, which have a slender income, should, as a matter of policy, be encouraged to spend their funds on such objects, as sanitation, public health, etc., which will be of direct benefit to the residents of the union and that, if any union board is financially in a position to contribute towards building projects, it should have a building of its own first before it contributes towards the erection of a building for a Union Board Association.

4. I am to request that the Secretary, Thakurgaon Union Board Association, and the union boards in your division may be informed accordingly.

*Memo. Nos. 331-334 L.S.-G., dated Calcutta, the 20th January 1938.*

Copy, with a copy of the letter under reply, forwarded to all Commissioners of Divisions (except Rajshahi), for information and communication to the union boards in their divisions.

*Memo. No. 335L.S.-G., dated Calcutta, the 20th January 1938.*

Copy forwarded to the Secretary, Thakurgaon Union Board Association, for information, with the intimation that, in the circumstances explained, no useful purpose will be served by sending the proposed deputation to the Hon'ble Minister.

*Letter No. 491, dated the 6th December 1937, from Rai Sahib Girindra Chandra Choudhury, Secretary, Thakurgaon Union Board Association, to the Hon'ble Minister-in-charge of Public Health and Local Self-Government.*

I have the honour to bring to your kind notice that the Thakurgaon Union Board Association which was established in the year 1934 as representing the 86 union boards of the subdivision of Thakurgaon in the district of Dinajpur, has constructed buildings of its own at the subdivisional headquarters for the purpose of locating its office and providing accommodation for members coming to the town from the mufassil areas. The buildings, with furnitures and equipments, have cost about Rs. 20,000, according to the contractor's bill which has been duly passed by the Association. The construction was undertaken on the distinct understanding given voluntarily by the constituent union boards that each of them would contribute Rs. 200 in the course of three years from 1342 B.S. (i.e., 1934 of the English year). The contractors also agreed to take payment in three years, ending in the month of Chaitra, 1344 B.S. in the meantime, however, a circular (Nos. 4182-4186L.S.-G.) has been issued by your Ministry making it illegal for any union board to contribute more than Rs. 15 for purposes of this nature. The union boards, most of whom have scarcely paid more than Rs. 100 out of the promised sum of Rs. 200, have thus been severely handicapped.

A major part of the contractor's bill still remain to be paid, but the union boards are unable to make any payment and redeem their promise in view of the provisions contained in the circular referred to above. The Association has thus been placed in a very awkward situation, being absolutely powerless to pay the balance of the contractor's bill which still amounts to Rs. 13,339-5-0.

I beg to submit, in these circumstances, that the union boards committed themselves to pay the contribution of Rs. 200 long before the circular Nos. 4182-4186 of your Ministry came into force. The construction of the buildings also was completed before the issue of the abovementioned circular. The Association may, therefore, reasonably hope that the operation of the circular should not be enforced in the case of these union boards so far as the payment of their promised contribution of Rs. 200 is concerned. The Executive Committee has, therefore, decided to approach you with a prayer for the suspension of the operation of the circular in respect of this payment. It has further been decided to send a deputation to wait upon you for the purpose of laying before you the facts and circumstances for your favourable consideration. The deputation will consist of Maulvi Mohammad Amirullah, Maulvi Khorsed Ali Chowdhury and myself, and Maulvi Kader Baksh, M.L.C., and Maulvi Hafizuddin Chowdhury, M.L.A., have kindly agreed to accompany the deputationists.

It is our desire that the deputation should wait upon you during the ensuing Christmas holidays. I shall, therefore, be highly obliged if you be good enough to let me know the exact date and hour which will suit your convenience to receive the deputation at Calcutta.

## • Contractors.

### **Employment by a District Board of the relations of its members or servants as contractors.**

*Ben., Mun., L.S.-G., Cir. No. 41 T.—M. of 20-10-1904, to Commrs.*

The Government circulated the following opinion of the Legal Remembrancer, dated the 6th October 1904, with the remark that, though there is no legal bar to the employment as contractors of the relations of members or servants of District Boards, yet such cases require close scrutiny, and the obvious dangers of such arrangements should be kept in view.

#### *Opinion.*

There is no legal bar to a relation of a member or of a servant of the District Board being employed as a contractor. But such cases should be scrutinised and the words "has directly or indirectly any share or interest" in section 144 of Bengal Act, III of 1885, should be borne in mind, so that if the member or servant of the District Board be found to have a pecuniary interest in the contract he would be liable to the penalty prescribed by that section. The natural interest which a man honestly takes in the affairs of his relation is not "interest" within the meaning of section 144.

## Conferences.

### **Holding of water-supply and anti-malarial conferences by District Boards.**

*Ben., L.S.-G., Nos. 358-62 T.—L.S.-G. of 17-6-1921, to Commrs.*

I am directed to say that the Government of Bengal (Ministry of Local Self-Government) desire that District Boards should be asked to hold conferences to formulate anti-malarial measures and schemes of water-supply for their districts and to consider how they should be financed. In this connection the conferences should consider whether such schemes cannot be financed by District Boards raising local loans on the security of the District fund. The leading men of the District should be asked to attend the conferences, whether they are members of the District Board or not.



2. The Minister attaches the utmost importance to these conferences, for they would represent the considered opinion of the leaders of the district upon the important question of water-supply and anti-malarial operations and he trusts that they will be held as early as convenient. A copy of the proceedings of the conference held by each District Board should be submitted to Government for publication, if necessary, in the newspapers.

3. I am to add that the Hon'ble Sir Surendra Nath Banerjea will be glad to attend some of the conferences, if requested to do so.

### Copies.

#### Supply of copies of, and information respecting, papers and documents in the offices of District and Local Boards.

*Ben., Mun. (L.S.-G.), Cir. No. 12 of 13-4-1893, to Comms.*

Whereas a notification, dated the 24th September 1892, containing the Rules, reproduced below, for the supply of copies of, and of information respecting, papers and documents in the offices of District and Local Boards in Bengal, was published at page 235, Part IB of the *Calcutta Gazette* of the 28th idem, and whereas no valid objection has been raised to the proposed Rules within one month from the date of the local publication of the said notification, it is notified for general information that the Lieutenant-Governor is pleased under section 138 (t) of the Local Self-Government Act, III of 1885, to confirm the Rules in question.

1. All applications for *information* or for *copies* of papers or documents shall be made at the office of the District or the Local Board to the Chairman or the Vice-Chairman between the hours of 12 and 2 p.m.

2. The applications shall be on printed forms as shown below, which may be obtained from the office of the Board at the cost of one pice per sheet:—

#### Form of Application for Information.

Number and date.	Name and residence of applicant.	Nature of the information required.	Ordinary searching fee deposited.	Extra searching fee deposited.	Date and (if extra fees have been paid) hour by which the information is to be ready.	Signature of officer receiving the application.	Remarks.
1	2	3	4	5	6	7	8

### Form of Application for Copies.

1	2	3	4	5	6	7	8	9	10	11	12
Number and date of application.	Name, residence and description of applicant.	Specification of paper of which the copy is required.	Case or proceeding in which such paper is to be found or was filed.	Ordinary searching fee deposited.	Extra searching fee deposited.	Number of sheets of blank paper filed with the application.	Name of officer or department where the paper in question is to be found.	Date and (if extra searching fees have been paid) hour by which copy is to be ready.	Name of copyist.	Name of officer receiving application who fills up the three preceding columns.	Remarks

3. The District or Local Board is not bound to give copies of any document required by the public. It shall rest with the Chairman or Vice-Chairman to determine in each case, on receipt of the application in the prescribed form, whether or not copies of the documents applied for should be granted. Ordinarily copies of written arguments, discussions, notes, opinions or reports of officers or members of the Board or of correspondence shall not be given.

(a) A copy of a copy shall be granted only when good grounds are shown for not taking it from the original, i.e., for not applying to the office where the original is kept. The ministerial officer in charge of the office of the District or Local Board shall be held personally responsible for the observance of this rule.

4. All applicants for copies shall supply blank folios at their own cost for the copies required—each folio to contain 150 words in English or 300 words in the Vernacular, four figures counting as one word. Printed forms of folios will be supplied by the Board in the form annexed at the rate of one pice per folio.

5. Whenever a copy is refused, the folios deposited with the application for the copy shall be returned to the applicant.

6. All applications shall be numbered consecutively according to the number given to them in the registers to be kept for the purpose (*vide* rule 8 below) and filed up the office.

7. Applications for information should be submitted in duplicate, the applicant filling up the spaces reserved for the date, his name and residence, the particulars of the information required, and the ordinary and extra searching fees (if any) tendered by him. The officer receiving such application is to enter in the first column the consecutive number, and in the seventh column his signature. He will also enter in the sixth column the date and hour, if necessary, by which the information is to be furnished. One copy of the application will be made over to the applicant with a direction to return with it at the time fixed. The other copy will be passed on to the clerk in charge, who will note in the eighth column the date and, in cases where the extra fee has been paid, the hour of receipt, and after entering in the

column for remarks the necessary information, return it to the receiving officer before the time prescribed. On the applicant's reappearance, this copy bearing the information will be made over to him, and the other copy, bearing his dated receipt in the column for remarks, will be taken from him and recorded in the office. These forms will be filed in the order of their admission in a separate series for each month.

8. A register of applications for information is to be maintained in the following form:—

Number.	Date of application.	Name and residence of applicant.	Nature of information required.	Date on which information was supplied.	Ordinary searching fee paid.	Extra searching fee paid.	Total of columns 6 and 7.	Signature of the officer receiving the application.	Remarks
1	2	3	4	5	6	7	8	9	10

9. The ordinary searching fee shall be uniformly four annas for all cases. When this fee is paid, the time to be fixed for supplying the information required shall not, without the special orders of the Chairman or Vice-Chairman in each case, be later than 3 p.m. of the third open day after the presentation of the application, the day of presentation being excluded. The extra searching fee shall be an additional one rupee, by payment of which the applicant shall be entitled to receive the information applied for by 5 p.m. of the day on which his application is presented.

10. Only one application need be made for copies of papers or for information required in connection with a single cause or matter, *e.g.*, if copies are required of four separate papers in one record, only one application is necessary. When copies of, or information relating to, papers connected with different matters or causes are wanted, as many applications are necessary as the matters or causes to which they relate.

11. A uniform charge shall be made for the preparation of copies at the rate of four annas per folio to be levied in cash; and the amount shall be credited at once to the Fund of the District Board concerned.

12. All copies shall ordinarily be made by the Board's establishment, and when section-writers are employed, they shall be remunerated at the rate of two annas per folio. The other half of the charge levied represents the cost on account of the salary of the examiner. The accounts of the section-writers shall be made up monthly, and the amount due to each paid out of the Board's funds, care being taken to see that nothing in excess of half the amount realised is paid away.

13. All copies must be examined and initialled by a salaried officer of the Board not being himself the writer of the copy and shall before issue be "certified to be correct copies," the necessary endorsement being signed in full by the Chairman, Vice-Chairman, or such officer as the Chairman may appoint in that behalf, and in case of copies issued from the office of the District Board, these shall bear the seal of the District Board.

Copyists shall in no case be allowed to compare for themselves or each other.

14. If the quantity of paper supplied by the applicant falls short of what is required, a further supply of paper should be called for and obtained before the copies required are furnished to him. Should any applicant delay for more than a week after the period fixed for delivery of the copy to apply for the same, the fees paid by him shall be forfeited. All such orders for forfeiture shall be noted by the officer who keeps the register, in the column for remarks in the register, and shall be brought to the Chairman or Vice-Chairman for signature on the day of forfeit. But nothing in this rule shall deprive the section-writers of the remuneration due to them.

15. Copies must be written only on one side of the sheet which must not contain more than the authorised number of words. Care should be taken to see that applicants are not imposed upon by the copyists unnecessarily spreading their writing.

16. When an applicant requires his copies to be furnished on the day of application, an extra fee of one rupee (or, if the copies exceed four folios, of four annas for each folio\*) shall be charged on all copies so furnished. Care, however, is to be taken that other applicants for copies do not materially suffer by the arrangement. If the granting of other copies be much delayed by this rule, an extra hand ought to be told off to furnish the copies urgently required.

17. Under ordinary circumstances, the time for furnishing the copies required shall not be later than 3 p.m. of the third open day after the presentation of the application.

18. A register of applications for copies shall be maintained in the following form:—

Serial number.	Date of application.	Name of applicant.	Ordinary searching fee paid.	Extra searching fee paid.	Number of sheets of paper —				Date on which copy was ready for delivery.	Date on which delivery was taken.	
					Filed with application.	Filed afterwards.	Returned unused.	Used.			
1	2	3	4	5	6	7	8	9	10	11	12

19. In the case of maps and plans no general rule can be laid down. In each case a charge will have to be fixed with reference to the difficulty or intricacy of the work done, and to the cost of tracing cloth.

20. No fees are to be demanded or paid for searching for or copying papers required by public officers for public purposes. In such cases the copies are to be made by the establishment of the District and Local Board.

\*This is a fee for credit to the Board, and no part of it is payable to the section-writers.

21. Copies of these rules in the vernacular are to be conspicuously exhibited in the offices of the District and Local Boards.

*Ben., Mun. (L.S.-G.), Cir. No. 16 of 1-5-1893, to Comms.*

With reference to the orders conveyed in paragraph 2 of Circular No. 39L.S.-G., dated the 8th October 1892, I am to request that the attention of Commissioners of Municipalities in your Division may be drawn to the Rules confirmed by the Lieutenant-Governor, under section 138 (t) of the Local Self-Government Act, III (B.C.) of 1885, for the supply of copies of, and of information respecting, papers and documents in the offices of District and Local Boards in Bengal, which are contained in the notification No. 1303L.S.-G., dated 10th April 1893, published at page 54, Part IB of the *Calcutta Gazette* of the 12th idem. I am to point out that the Bengal Municipal Act, III of 1884, as it stands at present, does not empower Government to prescribe rules in this regard for adoption by Municipalities, but it is hoped that Municipalities will, of their own motion, adopt these rules for their own use and guidance.

### **Stamping of copies of Municipal Records.**

*India F. & C., No. 1409S.R. of 24-3-1898. Ben., Mun., Cir. No. 47M. of 20-4-1898, to Comms.*

I am directed to acknowledge the receipt of your letter No. 1226—XI-414A., dated the 21st September 1897, on the subject of stamping copies of municipal records.

2. His Honour the Lieutenant-Governor has no objection to take to the principle that certified copies of municipal records should before being given in evidence in the courts, be liable to stamp duty; but he sees no reason why the public, when obtaining certified copies of municipal records for their private use, should be liable to charges for stamps from which they are exempt in the case of copies obtained from the courts for the same purpose.

3. I am to say that, in the opinion of the Government of India, when a copy of a document is taken for private use only and no stamp duty is charged, it is not necessary that it should be certified as a true copy. For some years past it has been the practice in Bengal, Bombay and Assam to issue uncertified copies of documents filed in court when they are required for private use and information only. The practice is desirable in order to prevent copies being given surreptitiously, and the Government of India are not disposed to think that it tends to encourage fraud; a document might be forged if it were required for some other purpose than private use, but when it is required for such use it is unlikely that any man would forge a copy.

4. After careful consideration of the suggestion made by His Honour the Lieutenant-Governor, the Government of India are of opinion that when certified copies of municipal records are required, they should be stamped, but that there is nothing which need prevent the issue by the Secretary of a Municipality of uncertified and unstamped copies of such records when required for private use.

## Correspondence.

**Chairman of a District Board to correspond with the Commissioner through the District Magistrate when the latter is not the Chairman.**

*Ben., Mun., Nos. 57-60T.—L.S.-G. of 10-8-1920, to Commrs., except Presy.*

I am directed to forward a copy of Government order No. 493-L. S.-G., dated the 19th February 1917, directing that, when the District Magistrate is not the Chairman of a District Board, correspondence between the Chairman and the Commissioner should pass through the District Magistrate, and to request that a copy of it may be communicated to District Boards and District Magistrates in your division for information and guidance.

2. I am also to request that a copy of Government order No. 3766-L. S.-G., dated the 10th November 1919, a copy of which was forwarded with memorandum Nos. 3767-70 L. S.-G., of the same date, defining the relation between the District Magistrate and the non-official Chairman of a District Board in the matter of audit notes on the District Board accounts may be circulated to District Boards and District Magistrates in your division, if this has not been already done.

*Note.*—In cases of extreme urgency, the Chairmen of District Boards may correspond with the Minister for Local Self-Government direct subject to the condition that copies of the correspondence are sent to the local authorities. See "Note showing the action taken on the recommendation of the District Board Conference held at Government House, Calcutta, on the 6th and 7th March 1923." (Circulated with the Bengal Government Nos. 5254-5283M. of the 11th November 1922, to the District Boards and Commissioners.)

## Diseases

### Infectious or Epidemic Diseases.

*Ben., Gen., Nos. 51-55-T.—L.S.-G. of 6-8-1920, to Commrs.*

I am directed to invite attention to rule 1 (g) of the model rules prescribing the duties of District Health Officers, which lays down that on receiving information of the outbreak of any infectious or epidemic disease of a dangerous character, the District Health Officer shall visit without delay the locality where the outbreak has occurred and take such measures as are necessary for the prevention of the extension of the disease. In order to enable the Health Officer to act under this rule, I am to request that it may be suggested to District Boards in your division that they should issue instructions under section 26 (f) of the Village Self-Government Act to the effect that when any case of plague, cholera, small-pox or influenza occurs in a Union, the President of the Union Board should submit immediately a report of the outbreak direct to the District Health Officer, or to the Civil Surgeon (pending the appointment of a District Health Officer) and also to the Chairman of the Local Board concerned. The report should state when the outbreak began, what villages are affected, the number of persons attacked by the disease, the number of deaths caused by it, and the measures taken to cope with the outbreak.

## Dispensaries.

### **Contribution by District Boards towards support of dispensaries within municipal limits.**

*Ben., Mun., (L.S.-G.) No. 502 of 11-2-1888, to Commr., Bhagalpur.*

On a reference made by the Commissioner of Bhagalpur, the Government of Bengal wrote:—

2. In reply, I am directed to inform you that the Lieutenant-Governor is advised that the fact of a Dispensary being situated within the limits of a Municipality, is no obstacle to a District Board contributing towards its support.

## District Boards.

### **Appointment of a member in the place of one disqualified for absence from six consecutive meetings.**

*Ben., Mun., No. 4545 of 6-11-1887, to Commr., Presy.*

On the subject of appointing a new member in the place of one who has become disqualified for having absented from six consecutive meetings of a District or a Local Board, the Government wrote "that section 18 of the Local Self-Government Act does not provide that a member of a District or Local Board shall at once cease to be a member if he absents himself from six consecutive meetings of the Board without sufficient excuse, but merely empowers the Lieutenant-Governor to remove the member in such a case. The Lieutenant-Governor is not disposed to exercise this power in the case of the Civil Surgeon of— who cannot be allowed to divert himself of duties imposed on him by Government. One of his most important duties is to advise in matters which may concern the public health, and he should recollect that he is Civil Surgeon of the district and not of the headquarters station only. He will continue to be a member of the Board, and he should be requested to arrange his other duties so that he may be able to discharge his functions as a member of the District Board.

### **Vice-Chairman, District Board, not to receive payment from district Fund.**

*Ben., Mun., No. L. 2-G—1-2 of 20-7-1890, to Commr., Burdwan.*

I am directed to acknowledge the receipt of your Memo. No. 289-L.S.-G., dated the 5th July 1890, forwarding, with your remarks, an application from the District Board of Burdwan to be allowed to pay a sum of Rs. 1,800 from the District Fund to the late Vice-Chairman of the District Board and of the late Road Cess Committee, in consideration of his long term of gratuitous and valuable service.

2. In reply, I am to say that while the Lieutenant-Governor is glad to recognize the good service rendered by the late Vice-Chairman, he has no doubt that the proposal of the District Board is one which ought not to be sanctioned under the Local Self-Government Act. It has already been ruled that it would not be legal for the Board to pay its Vice-Chairman, and the objection applies equally to remunerating him by bonus. His Honour therefore regrets that he cannot accord his sanction to the Board's proposal.

### **Appointment of Subdivisional Officers as Members of District Boards.**

*Ben., Mun., L.S.-G., Cir. No. 21 of 8-3-1911, to Comms.*

The attention of Government has been drawn to the position of Subdivisional Officers as members of District Boards. It is ordinarily the practice that Subdivisional Officers are members of the District Boards of their respective districts, but there is not uniformity in the method of their appointment. In some instances they sit as members appointed by the Commissioner; in others as the elected representatives, on the District Board, of the Local Boards of which they are members.

2. It has been represented that Subdivisional Officers are not eligible for election to the District Board by Local Boards, since they do not possess the residential qualification required by section 13, proviso (2), of the Bengal Local Self-Government Act (as amended). Whereas this qualification is required by section 7. The Lieutenant-Governor in Council is advised that the legal point is not free from doubt, but in any case, in view of the fact that it is arguable, and that the official position of the Subdivisional Officer puts him at a considerable advantage in comparison with other candidates for election, I am to request that in future, if it is considered desirable that a Subdivisional Officer should be a member of a District Board, he should be appointed *ex-officio* in that capacity by the Commissioner. Subdivisional Officers should be instructed not to offer themselves for election to the District Board by the Local Boards to which they belong.

3. Effect should be given to the changes when the District Boards in your division are next reconstituted.

### **Appointment of District Deputy Inspectors of Schools as members of District Boards.**

*Ben., Edn., No. 261 of 3-2-1921, to D.P.L., Ben.*

I am directed to refer to your letter No. 448/11c-10-G-19 of the 12th June 1919, on the subject of the appointment of District Deputy Inspectors of Schools as members of District Boards. The question was considered at the Conference of Commissioners held on the 13th October 1919 and Government accepted the resolution of the Conference which was as follows:—

“Although ordinarily it is very desirable that the Deputy Inspector of Schools should be a member of the District Board, it is unnecessary to fetter the discretion of local officials in making nominations.”



## Increase in membership of District Boards and in proportion of elected members thereof.

*Ben., Mun., Cir. Nos. 1-5 T.—L.S.-G. of 22-4-1920, to Commrs.*

I am directed to say that, after careful consideration the Governor in Council has come to the conclusion that the proportion of appointed members required to redress inequalities in the working of the elective system and to secure the representation of minorities, and at the same time to provide for an element of official experience and expert knowledge, can be reduced to one-third in all districts throughout which Local Boards have been established. The proportion of elected members will, therefore, be raised to two-thirds in all districts, except Bogra and Malda, where all the members are appointed, and Jalpaiguri, Dinajpur and Chittagong, where Local Boards have not been constituted for each subdivision.

2. There is a consensus of opinion that the total number of members of District Boards should be increased and the Governor in Council is pleased to fix the following numbers for the Boards shown below:—

District.	Total No.
Howrah	18
Birbhum, Bankura, Khulna, Pabna, Burdwan and Noakhali ..	24
Murshidabad, Rangpur and Rajshahi .. .. .	27
24 Parganas, Nadia, Jessore, Faridpur, Bakarganj, Tippera and Hooghly .. .. .	30
Mymensingh, Midnapore and Dacca .. .. .	33

Separate\* orders will issue in regard to the District Boards of Chittagong and Dinajpur when Local Boards are created for each subdivision.

3. The necessary changes both as regards the total strength of the Boards and the proportion of elected members will be made when the term of office of existing members expires. In the meantime, proposals for allotting the seats to be filled by election among Local Boards should be submitted to Government.

## Legality of the functions to be performed by a Standing Committee of a district board.

*Ben. L. S.-G. letter No. 2648 L. S.-G. of 28-7-1930, to Commr., Burdwan.*

I am directed to refer to your letter No. 948 L. S.-G., dated the 15th May 1930, in which you report that the Bankura District Board

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\*The number of the members of the following District Boards was increased to that shown against each:—

Chittagong—30 (vide Notification No. 320 L. S.-G. of the 23rd December 1920).

Dinajpur—27 (vide Notification No. 2638 L. S.-G. of the 8th November 1920).

Bogra—18 (vide Notification No. 756 L. S.-G. of the 17th February 1922).

Jalpaiguri—21 (vide Notification No. 1124 L.S.-G. of the 27th February 1922).

have appointed a union board standing committee to perform the following functions:—

- (a) to exercise supervision over the union boards;
- (b) to inspect their works and records;
- (c) to make recommendations regarding works or institutions to be made over to the union boards under section 33 of the Village Self-Government Act and regarding grants-in-aid under section 45 and regarding all other matters in which powers are conferred on the district board by the Village Self-Government Act;
- (d) to consider the budgets of the union boards.

You ask for the decision of Government as to the legality of the functions to be performed by the standing committee.

2. In reply I am to say that under section 50 of the Village Self-Government Act, the general superintendence over the affairs of union boards is the function of the local board, subject to the control of the district board. In other words, the general control of the district board over the administration of union boards should be exercised through the local board and not direct. Further, under sections 52 and 53 of the same Act, the duty of inspection of the records and works of union boards is not a function of the district board but lies with its Chairman. Government have, therefore, been advised that functions (a) and (b), which the Bankura District Board proposes to assign to the standing committee, are *ultra vires*. Clause (a) would, however, be brought into accordance with the Act if it were redrafted in the terms "to make recommendations to the district board on the exercise of its power of control over the affairs of union boards, under section 50 of the Village Self-Government Act." As regards clauses (c) and (d), Government agree with you that there is no objection to the standing committee exercising these functions.

3. In conclusion I am to request, that it may be impressed on the district board that, as stated above, the local boards are the proper authorities under the Act through which the district board should exercise control over union boards and that the sub-committee, if constituted, should on no account give reasons for resentment to the local boards.

### **Policy of Government regarding grant of scholarships by district boards for technical or other special form of education outside India.**

*Ben., L.S.-G., Cir. Nos. 98-102T.—L.S.-G. of 18-9-1930, to Commrs.*

I am directed to say that Government have had under consideration the policy to be followed in regard to the grant of scholarships by district boards under section 64A of the Local Self-Government Act, for the furtherance of technical or other special form of education outside India.

2. There has recently been a tendency for district boards to sanction scholarships of comparatively small value, such as Rs. 50 per mensem in favour of a student from the district for the purpose of the

**study of technical subjects, such as engineering, in England, America or on the Continent of Europe.** In many cases it does not appear that the student in question has any exceptional academic qualifications.

3. Government have given careful consideration to the question of policy involved in the grant of such scholarships, and are of opinion that the objections to this type of scholarships must be held to outweigh any advantages which may be derived from them in the district in which they are granted. In the first place, education abroad is costly, and it may be assumed that if a student cannot find the funds for study abroad without this comparatively small assistance then it is better that he should not make the journey. On the other hand, a grant of a scholarship even of Rs. 50 per mensem to one student is disproportionate, as a rule, to the resources available, to a district board for expenditure on scholarships; and this disproportion becomes only the more marked should the scholarship be increased to cover a more substantial share of the expenses abroad. Moreover, in the case of a student of no more than average academic qualifications it is difficult to see what justification there can be for the grant of a scholarship for training abroad at the public expense.

4. As a general rule, Government would be inclined to take the view that the limited resources of district boards would be better employed in granting educational facilities to deserving local candidates in this country and that it is the function of the State to tackle the more costly burden of the education abroad of promising students who cannot undertake such study without the grant of a scholarship.

5. As a general rule, therefore, I am to say that the Government of Bengal would not be inclined in the exercise of their powers under 64A of the Local Self-Government Act to sanction the grant of scholarships to individual students for the purpose of supplementing their resources for study overseas. I am to request that district boards may be informed of the policy of Government in this matter.

### **Legality of granting a monopoly to a private company to run motor vehicles on District Board roads.**

*Ben., L.S.-G., No. 121T.—L.S.-G. of 27-4-1926, to Commr., Dacca.*

In continuation of my No. 85T.—L.S.-G., dated the 21st April 1926, regarding the legality of granting a monopoly to a private company to run motor vehicles on the Mirpur Road in the Dacca district, I am directed to say that Government are advised that such a monopoly cannot be given. The District Board can only restrict the use of its roads by certain classes of vehicles by making a by-law, subject to the Commissioner's confirmation under section 139 of the Local Self-Government Act. Government are also advised that a by-law giving permission to one owner of motor vehicles to use a certain road and refusing permission to another owner to ply vehicles along the same road could not be described as a by-law made for carrying out all or any of the purposes of the Local Self-Government Act.

**Interpretation of the term "year" in section 26A of the Local Self-Government Act, and the maximum period of leave allowable to a Chairman or Vice-Chairman in any year.**

*Ben., L.S.-G., No. 161L.S.-G. of 18-1-1927, to Commr., Dacca. (Copy to other Commrs.)*

I am directed to invite a reference to paragraph 2 of Mr. Dutt's letter No. 18M., dated the 3rd January 1924, in which it was intimated that the term "year" in section 26A of the Local Self-Government Act should be interpreted as referring to the financial year. It appears that the interpretation given in that letter was not correct and Government are now advised that the word "year" as used in this section means something different from "financial year" as defined in section 5. Had it been intended that the term "year," wherever used in the Act, should mean financial year, it would have been so defined in section 5, and no definition of "financial year" would have been necessary. Moreover, as section 26A was added by the Local Self-Government (Amendment) Act of 1908, the word "year" would carry the meaning of calendar year under section 3 (48) of the Bengal General Clauses Act I of 1899. I am to request that the District Boards in your division may be informed accordingly.

It may be added, however, that although section 26A, construed literally, would authorize a District Board or Local Board to grant leave to their Chairman or Vice-Chairman for a continuous period of six months from 1st October to 31st March, such is obviously not the intention of the section. Ordinarily when an office-bearer wishes to absent himself from his duties for a period longer than three months in any twelve, he should resign outright.

**Measure for preventing the heavy outstandings on account of pound and ferry rents.**

*Ben. L.S.-G., No. 775L.S.-G. of 7-3-1928, to Commrs.*

In his report on the working of the Local Audit Department for the year 1925-26 the Examiner of Local Accounts has observed that in several districts there were heavy outstandings on account of pound and ferry rents, and that such outstandings are largely due to the failure of District Boards to enquire into the solvency of intending lessees and to disinclination on their part to adopt in time the summary procedure of recovery prescribed in the *kabuliyats* executed by the lessees. He, therefore, suggests that District Boards should insist on advance payment by the lessees and should disqualify all who default in one instalment from bidding at any later settlement; and that the state of collections should be frequently reviewed by the Vice-Chairman, the prescribed summary procedure being adopted promptly, where necessary.

2. Government (Ministry of Local Self-Government) accept the above suggestions, and I am to request that District Boards in your division may be asked to act accordingly to them.

**Grant of permanent fishery rights in tanks to persons who make a free gift of the same to the District Board for re-excavation.**

*Ben., L.S.-G., No. 2904 L.S.-G. of 28-8-1928, to Commr., Presy.  
(Copy to other Commrs.)*

I am directed to refer to your letter No. 66 L.S.G., dated the 13th March 1928, regarding the proposal of the Sadar Local Board, Khulna, to grant permanent fishery rights in tanks to persons who make a free gift of the same to the District Board for the purpose of re-excavation. You propose—

- (i) that section 90 of the Local Self-Government Act should be so amended as to allow the reservation of tanks which are temporarily leased to the District Board and on the re-excavation of which the District Board has spent money; or
- (ii) that it might be considered whether a conditional sale at a nominal price subject to redemption after 20 years would satisfy the meaning of section 90.

2. In reply, I am to say that the question of amending section 90 will be considered when the Local Self-Government Act comes up for amendment. As regards the alternative proposal, Government are advised that the law recognises instruments of sale with a condition or covenant for reconveyance to the vendor, or with a provision for pre-emption on certain terms. There is thus no objection to the owner of a tank selling it to the District Board at a nominal price, with a stipulation or condition for reconveyance—the conveyance being all the same an absolute conveyance. The tank thus sold to the District Board can, therefore, be classed for the purposes of section 90 of the Local Self-Government Act, as one that is not private property.

**Submission of Projects by District Boards for the approval of the Irrigation Department.**

*Ben., L.S.-G., Cir. Nos. 5304-5308 L.S.-G. of 26-6-1936, to Commr.*

I am directed to invite your attention to sections 78 and 79 of the Local Self-Government Act which authorize the district boards to construct, repair and maintain certain works. Under section 86 of the Act these powers of the district board are subject to rules framed by the Local Government under the Act. The powers of the district board have been restricted *inter alia* by clauses (b) and (c) of rule 57 of Part IX, Local Self-Government Rules as amended by notification No. 1801-L.S.-G., dated the 11th April 1932, which provide that all projects undertaken by a district board:—

- (i) which may affect or alter the course of any river which is navigable at any time of the year, or in either bank of which there is any public embankment; and
- (ii) which are liable seriously to affect the drainage or irrigation of any considerable tract of country,

shall be subject to the approval of the Local Government in the Irrigation Department.

Under the proviso to section 86, of which was inserted by the Bengal Local Self-Government (Amendment) Act XXIV of 1932, it is not necessary for the district boards to submit to a higher authority for sanction the plans and estimates of any work the total cost of which does not exceed ten thousand rupees.

The above provision was not, however, intended to override the provisions of rule 57 (b) and (c) in so far as small projects are concerned and Government consider that it would be in the interest of the district boards themselves and of the public at large whom they represent if the district boards continue to submit for the approval of Government in the Irrigation Department all projects which are likely to affect the course of a navigable river or a river with a public embankment on either bank, or which are liable seriously to affect the drainage or irrigation of a tract of country, even if the total cost of any such projects does not exceed ten thousand rupees.

This will also afford an opportunity to the district boards to modify, if necessary, their projects on receipt of expert opinion of the officers of the Irrigation Department.

In the circumstances, I am to request that the position may be explained to the district boards in your division with the request that they should continue to submit such projects for the approval of Government in the Irrigation Department in the manner laid down in clauses (b) and (c) of rule 57 referred to above.

*Memo. No. 5309 L.S.-G. of the 26th June 1936.*

Copy forwarded to the Irrigation Department of this Government for information.

*Memo. No. 5310 L.S.-G. of the 26th June 1936.*

Copy forwarded to the Revenue Department of this Government for information.

### **Administration of District School Boards.**

*Ben., L.S.-G., Cir. No. 5889-5893 L.S.-G. of 23-10-1937.*  
*to Commr*

I am directed to say that, in view of the establishment of district school boards under the provisions of the Bengal (Rural) Primary Education Act, 1930, in certain districts of this province, a question has arisen as to whether the statistics for primary schools maintained or aided by the district school boards should be included in the future administration reports on the working of the district and local boards.

2. The matter has now been considered by Government and it has been decided that, as district school boards are separate statutory bodies under the administrative control of the Education Department of this Government, the statistics and other particulars relating to them should be dealt with by that department and excluded from the administration reports on the working of the district and local boards.

3. I am to say that the above decision does not entail any alteration in the forms of statistics appended to the administration reports on the working of the district and local boards. The grants made by the district boards to the district school boards should, henceforth, be shown in column 36 (other contributions) of form No. III, with a footnote explaining the nature of these grants; while columns 8 to 13 and 22 to 27 of appendix B and the whole of appendix C should be left blank for districts in which school boards have been established and the reason for the omission should be stated in a footnote under each of these appendices.

*Memo. No. 5894 L. S.-G. of 23rd October 1937.*

Copy forwarded to the Education Department of this Government for information.

## District Engineers.

### Remuneration of District Engineers and District Boards for works executed on behalf of Miscellaneous Civil Departments.

*Ben., Mun. (L.S.-G.), Res. No. 2384 with Cir. No. 16 of 14-8-1901, to Comms.*

In the resolution\* cited in the preamble, rules were laid down regarding the carrying out of Imperial and Provincial Civil Works through the agency of District Boards, and the contribution to be paid to those bodies for establishment and other charges connected with the preparation of projects and their execution.

2. The Chairman of the District Board of Pabna has represented that requisitions are very often made on the District Engineer by the Police, Jail, Medical, and other Civil departments for plans and estimates for works which those departments carry out departmentally, and that it is also not unusual for Civil departments to request the District Engineer to supervise, check and examine works done by the departments themselves or even to carry out the works. The Chairman of the District Board has therefore enquired whether the District Engineer is entitled to any remuneration in respect of such works.

3. The Superintending Engineer, who was consulted by Commissioner in the matter, is of opinion that the remuneration fixed in the resolution cited above as payable to District Boards in respect of works actually executed by them on behalf of the Public Works Department may be fairly claimed by District Boards in respect of works executed by their officers and establishments on behalf of Miscellaneous Civil Departments. The Lieutenant-Governor agrees in this view, and directs that the provisions of the resolution No. 775E, dated the 22nd March 1899, shall, as regards the remuneration of District Boards and their Engineers, apply to the cases under consideration with effect from the date of this resolution.

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\*Bengal Government, Public Works Department, No. 775E, dated the 22nd March 1899.

## **Payment of remuneration to District Engineers and the subordinate staff for doing outside work.**

*Ben., L.S.-G., Cir. Nos. 129-133T.—L.S.-G. of 23-5-1930, to Commrs.*

I am directed to refer to Government order No. 7 T.—L. S.-G., dated the 2nd May 1922, to the address of the Commissioner, Presidency Division, copies of which were communicated to other Commissioners with endorsement Nos. 8-11 T.—L. S.-G., of the same date, regarding the extra remuneration paid to District Engineers and the subordinate staff out of the fees received by District Boards for—

- (a) construction of police buildings (*vide* Circular No. 18 L. S.-G., dated the 24th March 1910) under the supervision of the District Engineers;
- (b) execution of other Government works (*vide* Resolution No. 775E., dated the 22nd March 1899, as subsequently modified); and
- (c) execution of municipal works (*vide* Resolution No. 193M., dated the 15th January 1901, as subsequently amended).

2. It appears that the orders of 2nd May 1922 permitting District Boards to remunerate their subordinate staff out of amounts received by them for doing works classed under clause (b) above were passed without taking into account the orders contained in the Public Works Department Resolution No. 58-74E., dated the 9th January 1912, which expressly prohibited the grant of extra remuneration to all District Board employees except the District Engineer for doing such works. In order to ascertain how these conflicting orders worked in the past an enquiry was made in this Department Circular No. 2-6-T.—L. S.-G., dated the 10th April 1929. The information received in reply to this enquiry shows a good deal of difference in the distribution of payments received by District Boards, but it is clear that the subordinate staff has not been debarred from participating in these. Conditions, however, vary considerably in each district and no hard and fast rules can be laid down. Government therefore propose to leave it to the discretion of the District Board in each case to decide whether the subordinate staff should receive part of the payment. But with a view to secure some degree of uniformity in the remuneration of both the District Engineer and the subordinate staff in future Government would lay down the following principle for the guidance of District Boards in modification of all existing orders on the subject.

3. Where a District Board does a large volume of work for other authorities, it can be assumed that the District Board staff has been enlarged to the extent necessary to enable it to meet the normal demand made upon it in respect of both district board and other works. In this case the argument for payment of allowances to the subordinate staff or even to the District Engineer can hardly be said to exist. If the work under the District Engineer's charge is extensive and important the proper course is to pay him an adequate salary covering these duties as well as his district board duties rather than to give him allowances based on a percentage of the amount received for outside work. Or, again the Board may have a staff which is normally equal to its own work and the additional work may be of such a character that the Board might reasonably ask its staff to supervise it without additional



remuneration. In a third case, the additional work may place an undue strain and responsibility on the normal staff; though the employment of additional staff is hardly necessary, and the members of the ordinary staff might reasonably be granted some allowance in consideration of the additional strain imposed upon them for the benefit of the District Board. As District Boards only can give a decision on the questions that arise in such cases, they are left to apply these principles from year to year or in respect of any particular work in such manner as might appear to them reasonable.

4. As a general rule it appears desirable that there should be some limit on the amount which District Boards could distribute to the Engineering staff. Government accordingly direct that when a District Board proposes to distribute to its subordinates including the District Engineer more than 50 per cent. of the allowances received by it for doing outside work, such distribution should not be made without the previous sanction of Government.

5. I am to request that copies of these orders may be communicated to the District Boards in your Division.

*Ben., Mun. (L.S.-G.), Res. No. 2345 with Cir. No. 27 of 7-8-1903, to Comms.*

In the resolution\* cited in the preamble, it was ruled that the provisions of Government resolution No. 775E., dated the 22nd March 1899, should, as regards the contributions payable to District Boards for works executed on behalf of the Public Works Department, apply to works executed by District Boards on behalf of Miscellaneous Civil Departments.

2. Under Rule VIII (ii) of the resolution of the 22nd March 1899, no contribution is payable to District Boards for the preparation of detailed plans and estimates or projects for original works costing less than Rs. 2,500. It has been represented that requisitions are frequently made upon District Boards by the Police, Jail, Medical and other Civil Departments, for plans and estimates for works, the cost of which rarely exceeds Rs. 2,500; that a greater expenditure of time and labour is required in the preparation of numerous plans and estimates of small amounts than in that of any single estimate for a large project; and that when no contribution is leviable in cases where the amount of each estimate is below Rs. 2,500, even though the aggregate sum of the estimates of a single department may largely exceed this limit, the provisions of the resolution cited in the preamble are of doubtful advantage. The Lieutenant-Governor agrees in this view, and accordingly directs, in modification of the orders conveyed in the resolution, dated 14th August 1901, that when District Boards both prepare the estimates and plans and execute the works on behalf of a Civil Department, they shall be paid the full amount of the percentage allowed by Rule IV (i) of the resolution, dated the 22nd March 1899, on all estimates irrespective of the individual amount of each, and that similarly when the Board only prepares the plans and estimates, the actual work and supervision being performed by the requisitioning department, the contribution of 2½ per cent. allowed by Rule VIII (iii) of the same resolution shall be payable on each estimate irrespective of its individual amount.

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\*Municipal Department No. 2384L. S.-G., dated the 14th August 1901.

*Ben., Mun. (L.S.G.), No. 758T.—M. of 21-5-1904, to Commr., Orissa.*

Later, on a reference made by the Commissioner of Orissa on the subject of the charge of a contribution of 15 per cent. on the Puri Lodging-house Fund, by the District Board on account of work done for the Fund by the District Engineer, the following orders were issued:—

2. In reply I am to point out that neither the rules contained in the Public Works Department resolution cited above, nor the rules contained in Municipal Department resolution No. 193M., dated the 15th January 1901, a copy of which was forwarded to you with Circular No. 2M. of the same date, apply to the present case, as the former deal only with Imperial and Provincial Civil Works and the latter with Municipal works, and the work done for the Lodging-house Fund fall under neither category.

3. It appears however that the position of works done for the Lodging-house Fund is analogous rather to that of those done for Government than to that of those done for a Municipality. The object of the rule in the case of the latter was to compel Municipalities to carry out minor works by means of their own staff; and as the Lodging-house Fund has no staff of its own the principle cannot be held to apply. The Lieutenant-Governor is therefore of opinion that the contribution should be in excess of that allowable in the case of Municipal Funds (which in the present instance would be nil), but at the same time he considers that an allowance of 15 per cent. is excessive.

4. I am accordingly directed to say that the Lieutenant-Governor is pleased to sanction a contribution of 10 per cent. being made to the District Board of Puri from the Puri Lodging-house Fund for the works executed by their District Engineer on behalf of the Fund, but that no more than 5 per cent. or half of this amount should be given to the District Engineer.

5. The Accountant-General, Bengal, has been advised.

### **Revision of pay of District Engineers.**

*Ben., L.S.-G., Nos. 1984-88 L.S.G. of 6-4-1921, to Commrs.*

I am directed to say that Government are advised that having regard to the provisions of section 33 of the Bengal Local Self-Government Act, they have no authority to fix the pay of District Engineers. I am to add that rule 1 of the rules made by Government under section 138 (g) (1) (m) of the Act, and published with notification No. 3334 L.S.-G., dated the 20th December 1901, fixing the pay of District Engineers, is consequently *ultra vires* and should be cancelled. A notification cancelling this rule and amending other rules (e.g., 11, 21, 57) will be issued shortly. In the meantime the District Boards in your division should be informed of the decision of Government.

*Ben., L.S.-G., Nos. 3664-68 L.S.-G. of 11-8-1921, to Commrs.*

In continuation of this department letter No. 1984-88 L.S.-G., dated the 6th April 1921, regarding the pay of District Engineers, I am directed to state that a deputation of District Engineers which was received by the Minister for Local Self-Government, expressed the apprehension that District Boards might arbitrarily change the present

scales of pay. I am therefore to point out that an alteration in the pay of an appointment is tantamount to the abolition of the existing appointment and the creation of a new appointment, and that section 33 of the Bengal Local Self-Government Act, 1885, lays down *inter alia* that no appointment on Rs. 100 a month or more shall be created or abolished without the approval of the Commissioner. It follows therefore that any alteration of the pay of District Engineers should be sanctioned by the Commissioners of Divisions. This should be pointed out to the District Boards in your Division.

*Ben., L.S.-G., No. 3717 L.S.-G. of 4-12-1925, to the Secy., District Board Engineering Association. (Copy to Commsrs.)*

I am directed to refer to your letter No. 133, dated the 28th August 1925, regarding the pay of District Engineers. In Mr. O'Malley's letter Nos. 3664-3668 L.S.-G., dated the 11th August 1921, it was stated that an alteration in the pay of an appointment is tantamount to the abolition of the existing appointment and the creation of a new one, and that any such alteration in the pay of an appointment on Rs. 100 per month or more would, under section 33 of the Local Self-Government Act, require the approval of the Commissioner. Subsequently in Government order Nos. 768-72 L.S.-G., dated the 4th March 1925, District Boards were informed that although for the purposes of audit a post might be said to be abolished and another post created when the salary attached to the post is changed, it would be straining the language of the law to hold that the reduction of the scale of pay of any post is legally equivalent to its abolition. In other words, it was recognized that under section 33 District Boards have power to alter the pay of a post since it does not thereby abolish the post. It appears that to test the validity of this order you, at the instance of your Association, took the opinion of Mr. L. P. E. Pugh, Barrister-at-law, and in forwarding a copy thereof you hold that, according to this opinion, District Boards have no power to reduce the salary of District Engineers without the sanction of the Divisional Commissioner as required by section 33 of the Act. You therefore ask for the reconsideration of the Government order contained in my circular of the 4th March 1925 referred to above.

2. In reply, I am to say that Government have read Mr. Pugh's opinion very carefully, but that they are of opinion that it does not deal with the real point at issue, viz., what may happen when the post of a District Engineer falls vacant, e.g., through death or lawful dismissal. The law is perfectly clear that it is the District Board which is empowered under section 33 to fix the salary of the new incumbent. This is also conceded by rule 11 of the rules relating to the appointment of District Engineers, as amended by notification No. 1917 L.S.-G., dated the 11th April 1922. The law is equally clear that under proviso (3) to section 33 the Local Government can prescribe certain qualifications for appointment as District Engineers. These qualifications might be such as would entail the payment of a sum far over Rs. 100 a month as salary, but the classification of districts for the purpose of appointment of District Engineers, the grading of District Engineers and the fixing of salary for the District Engineership of each district by the Local Government as in rule 1 and schedule A of the rules published with notification No. 3334 L.S.-G., dated the 20th December 1901, were not justified under

section 33. Accordingly the rule and the schedule referred to were cancelled by notification No. 1817 L.S.-G., dated the 11th April 1922. In the circumstances Government see no justification for modifying the orders already passed.

### **Suspension of a District Engineer by a District Board.**

*Ben. L. S.-G. letter No. 1284 L. S.-G. of 29-5-1930, to the Commr., Burdwan Divn.*

I am directed to acknowledge the receipt of your letter No. 50-L. S.-G., dated the 9th January 1930, and enclosures, regarding the suspension of Babu Indu Sekhar Bhattacharya, District Engineer, Midnapore, by the Midnapore District Board. The District Engineer having appealed to the Commissioner against his suspension, the Commissioner pointed out to the District Board that the order of suspension passed by it required his confirmation under provision (1) to section 33 of the Bengal Local Self-Government Act, 1885. The Commissioner in doing so, relied on the opinion of the Legal Remembrancer given in his letter No. 880, dated the 4th November 1892, addressed to this department, leading on to the statement made in paragraph 3 of Government order No. 4707 L. S.-G., dated the 24th November 1928, that "when an appointment to an office is subject to the approval of an authority, it is a general principle that the punishment of the officer is also subject to that authority unless the authority expressly delegates the power." The District Board, however, on a comparison of section 33 with the corresponding provisions of the preceding Cess Act, 1880, and the District Road Cess Act, 1871, and in view of rule 68 of the Model Rules of Business adopted by the District Board has contested the correctness of the Legal Remembrancer's opinion. You accordingly suggest that the matter may be cleared up by a reference to the Advocate-General.

2. In reply, I am to say that the question was referred to the Advocate-General who has given a ruling to the following effect. "Suspension" means the termination of rights which is temporary and which may be revived. If the District Board could suspend its Engineer without the approval of the Commissioner, it would follow that it could also suspend him for a long time and practically get rid of the necessity of confirmation of dismissal by the Commissioner. Section 32(g) of the Act enables the District Board to frame rules for suspension; such a rule must be subject to the rights of particular employees under provision (1) to section 33. The rule would therefore not apply to the District Engineer whose appointment and dismissal do not rest with the district board alone.

### **Uniformity in pay of District Engineers.**

*Ben., L.S.-G., No. 1308 L.S.-G. of 27-4-1923, to Commr., Presy. Divn.*

I am directed to acknowledge the receipt of your letter No. 276 L.S.-G., dated the 16th March 1923, in which you enquire whether, from the point of view of uniformity in the scale of pay of District Engineers of different districts, which was recommended in paragraph 3

of Government Circular No. 51-55 T.—L.S.-G., dated the 6th May 1922, there is any objection to the scale of pay of the District Engineer Jessore, being fixed at Rs. 350—20—750.

2. I am to say that from replies received to the above circular, it appears that District Boards are in most cases opposed to any uniform scales of pay being proposed by Government, and, on the whole, they evidently prefer that the exercise of their discretion should not be in any way influenced by the preparation of such scales. The Minister for Local Self-Government has no desire to press this proposal, although in the interests of the Boards themselves there are certain advantages in scales of pay which secure reasonable uniformity in the emoluments of officers employed by different local bodies on similar duties. In these circumstances, the proposal has been dropped, and there is no objection to your sanctioning the scale of pay proposed for the District Engineer, Jessore.

### **Qualification of District Engineers.**

*Ben., L.S.-G., Cir. Nos. 2781-2785 L.S.-G. of 5-4-1933, to Commrs.*

I am directed to refer to notification No. 1817 L.S.-G., dated the 11th April 1922, making certain amendments in Part IX, Local Self-Government Rules, regarding qualifications of candidates for employment as District Engineers, etc., and to say that Government have been advised that revised rule 21 (copy annexed) inserted by the notification is not authorised under section 138(g), (l) and (m) of the Bengal Local Self-Government Act, 1885, under which it was issued. Steps are, therefore, being taken to cancel the rule. In view, however, of the obvious advantage of the procedure laid down in this rule, Government are pleased to direct that it should henceforth be observed as an executive instruction.

### **Discontinuance of the return of officers and subordinates employed on local works.**

*Ben., L.S.-G., Nos. 370-74T.—L.S.-G. of 22-9-1922, to Commrs.*

I am directed to refer to the distribution return of officers and subordinates employed on local works in Bengal, which is a short history of the services of District Engineers and their subordinates and has hitherto been kept up to date in the Public Works Department of Government by making annual references to the Chairmen of District Boards. As no useful purpose is apparently served by the maintenance of this return, Government have decided to discontinue it. In order, however, that they may have complete information about District Engineers, it is necessary that some of the information given about them in this return should be incorporated in the confidential report on District Engineers, which Inspectors of Local Works are to submit annually in P. W. D. (correspondence) Form No. 79 prescribed in that department order No. 1655E., dated the 18th June 1902, to Government through the Chairmen of District Boards and the Divisional Commissioners under rule 42 of Part IX of the rules under the Local Self-Government Act. For this reason and also owing to the amendments recently made in these rules by notification No. 1817 L.S.-G., dated the 11th April

1922, some changes in the form have become necessary and Government are pleased to make the following changes, namely:—

- (1) *Omit* entries "class" and "grade" on page 1 and in their place *insert* the following new entries:—

"Date of birth....."

Date of first appointment.....

Date of present appointment.....

Pay....."

- (2) In entry No. 8-I on page 4 *omit* the last sentence "If so..... promotion"; and

- (3) In entry No. 8-II on the same page *omit* the words "to a superior district."

## District Fund.

### Application of the District Fund.

*Beng. Mun. (L.S.-G.), No. 1284 and Cir. No. 19 of 30-3-1896, to Commrs.*

I am directed to acknowledge the receipt of your letter No. 32T., dated the 17th January 1896, with which you submit copies of correspondence which passed between your predecessor and the Director of Public Instruction on the subject of the educational allotment of the District Board of Balasore for the year 1895-96. You give reasons for differing from Mr. Cooke on this subject, and you go on to recommend that in this and other districts, where the Local Self-Government Act is in force, formal recognition should be accorded to the principle "that the proceeds of the road cess should be spent on roads, bridges, and water-channels only; and that education and medical charity should be supported from other sources of income." In order to give effect to this principle, you propose that a separate account should be kept of the income derived by the Boards from road cess and of the expenditure incurred by them on the roads.

2. In reply, I am to point out that your letter discloses some misapprehension of the legal aspects of the question which you raise. The proclamation relating to the expenditure of the road cess, which was issued under Sir George Campbell's orders in 1873, had reference mainly to section 90 of Bengal Act X of 1871. It stated in popular language that the funds raised under that Act would be spent within the district on the local roads, canals, and rivers, and would not be diverted to any other purpose. It gave, however, no pledge that the law would never be changed, and in fact, seven years later, a material

change was introduced. By section 109 of Bengal Act IX of 1880, the objects on which road cess funds might be spent were substantially enlarged, so as to include the payment of leave allowances, gratuities or pensions, the planting of trees by the roadside, the improvement of the supply of drinking water, and the provision or improvement of drainage. At the same time the limitation to objects within the district, on which stress was laid in the Proclamation of 1873, was expressly extended, so as to enable the District Road Committee to construct, take charge of, or contribute towards any means and appliances for facilitating communication within the district, or between the district and adjacent districts.

3. The Bengal Local Self-Government Act of 1885 effected a further change. The second schedule of that Act, read with section 2, remodelled section 109 of Bengal Act IX of 1880. Nearly the whole of the first clause, making the cost of collection and valuation and the indemnification of the Collector a first charge on the District Board Fund, was re-enacted, and the rest of the section was replaced by a provision laying down that "the balance, after payment of such expenses, shall be credited to the District Fund of the district." Section 53 defined the application of the District Fund, and the fifth clause of this section made the fund applicable to "the payment of expenses incurred by the District Board in the performance of the duties imposed by this Act." In other words, while the Cess Act of 1880 had authorized the expenditure of road cess on pensions, water-supply, and drainage, the Local Self-Government Act of 1885 made a further departure from the principles of the Act of 1871, merged the road cess in the District Fund, and added pounds, education, medical relief, sanitation, vaccination, famine relief, the destruction of noxious animals, fairs, and agricultural exhibition to the list of objects to which the fund might be applied. From that time forward the income of the District Board, from whatever sources derived, has been one fund, and may legally be spent on any purpose provided for in the Act.

4. The view of the law, which is explained at length above, is that which has been taken by the Government on various references which have been made from time to time on the subject. It is a mistake to suppose that the orders issued in 1888, settling the educational expenditure of different districts and allotting grants from Provincial revenues, contemplated any separation of road cess funds from the general incomes of the Boards. The form in which those orders were passed was determined by considerations of financial convenience, and has no bearing on the general question now raised by you. At the same time, although under the law the District Boards, subject to the direction of the Commissioner, possess ample discretion as to the purposes upon which they may spend the District Fund, the Lieutenant-Governor considers that, on grounds of expediency and quite apart from any legal obligation, it is desirable as a general rule that an amount approximately equivalent to the proceeds of the road cess should be devoted to the objects which the Legislature had in view when Bengal Act IX of 1880 was passed. Special attention is urgently called for at present to the improvement of the supply of drinking water. Under section 48 of the Local Self-Government Act, the Commissioner can exercise full control over the District Board budget, and it is for him to see that effect is given to the principle laid down so far as the special conditions and needs of the districts admit.

## Donations and Endowments.

### Donations and Endowments made by private individuals for public purposes and works of public utility.

*Ben., Mun., Cgr. No. LM. of 6-1-1910, to Commrs.*

In Mr. Oldham's Circular No. 56M., dated the 1st September 1908, instructions were given as to the preparation of annual statement showing donations and endowments made by private individuals for public purposes and works of public utility. It was then directed that each donation, endowment or work of Rs. 1,000 or more in value should be separately shown in the prescribed statement, those below Rs. 1,000 being lumped together in one entry.

2. The return in question is of long standing, and various orders have been issued from time to time regarding it. Thus the maximum limit of donations to be specially reported has been gradually raised from Rs. 100 to the present figure of Rs. 1,000, and stress has been laid upon the necessity for the verification of the facts reported by a Subdivisional Officer or higher authority. Under orders of 1896 a gazetted officer is required to be responsible for the accuracy of the statements. It has been the practice hitherto for Government to review the returns in an annual resolution.

3. The Lieutenant-Governor has recently had under consideration the desirability of continuing these returns in their present shape, and the expediency of publishing the results reported in the form of an annual review. It is reported that the verification by a gazetted officer of the entries in the return entails much labour, and that the recognition of the generosity of individuals in an annual resolution tends to become a stereotyped formality which excites little interest. The intention of the procedure hitherto followed has doubtless been that Government should be informed of the current of private liberality and that the example of generosity on the part of some, thus publicly recognized by Government should stimulate others to undertake works of general utility. Both objects are in themselves laudable, and the Lieutenant-Governor has no wish to do anything which might discourage the flow of private munificence, or lead to the impression that such individual efforts are unappreciated by Government. But it is thought that the purpose in view will be better attained, if the recognition given by Government is more personally directed towards the actual donor, and if public attention is directed to acts of charity of large amount by their specific mention at the time rather than by their inclusion, along with others and after some delay, in an annual statement.

4. In supersession therefore of previous orders, His Honour is now pleased to direct that the annual resolution dealing with this subject shall in future be discontinued, and that the following procedure shall be observed in conveying the thanks of Government to private donors and in making their benefactions public:—

- (a) No expenditure by a private individual on public or quasi-public purposes, of less than Rs. 500, need be acknowledged by Government.



- (b) Such expenditure, if over Rs. 500 and up to Rs. 1,000 in amount, shall be reported to, and acknowledged by, the Collector of the district concerned, by a letter of thanks addressed to the donor, as soon as possible after the act of generosity is known.
- (c) Similar acts of liberty, if over Rs. 1,000 and up to Rs. 5,000 in amount shall in the same way be reported to, and recognized by, the Commissioner of the Division.
- (d) Donations and endowments, or works of public utility, of over Rs. 5,000 in amount or value in any one instance, should be reported, at the time they are made, to Government by whom they will be suitably acknowledged.
- (e) In April of each year, Commissioners of Divisions should publish over their signature in the *Calcutta Gazette* a statement of all gifts between Rs. 1,000 and Rs. 5,000 in value which have been acknowledged by them in the course of the year. The list should be in the form (printed below) prescribed in Mr. Oldham's Circular No. 56M., dated the 1st September 1908.
- (f) In all cases specified above no report should be submitted, and no letter of thanks should issue until the fact that the donation had been made, or the work executed, of the amount or value stated has been verified by a responsible officer.

Division.	District.	Name of donor.	Purpose.	Amount.	Total of district.	Total of division.	Remarks.
1	2	3	4	5	6	7	8

*Ben., Mun. (Medl.), Res. No. 1406, with Nos. 1407-17 and Nos. 1492-94 of 27-7-1911, to Depts. and Head of Depts.*

In January 1910, the local Government had occasion to examine the procedure adopted in regard to the acknowledgment by Government of donations and endowments made by private individuals for public purposes and works of public utility, and the following instructions were issued:—

- (i) No expenditure by a private individual for public or quasi-public purposes, of less than Rs. 500 need be [specially acknowledged].\*
- (ii) Such expenditure, if over Rs. 500 and up to Rs. 1,000 in amount, shall be reported to and acknowledged by the Collector of the district concerned by a letter of thanks addressed to the donor, as soon as possible after the act of generosity is known.

*Note.*—In Bengal Government Nos. 329-31 T.—M. of the 24th May 1912, the following changes were made in the instructions contained in this order:—

\*For these words, the word "need be acknowledged by Government" were substituted.

(iii) Similar acts of liberality, if over Rs. 1,000 and up to Rs. 5,000 in amount, shall in the same way be reported to and recognized by the Commissioner of the Division.

(iv) Donations and endowments or works of public utility, of over Rs. 5,000 in amount, or value in one instance, shall be reported, at the time they are made, to Government by whom they will be suitably acknowledged.

(v) In April of each year Commissioners of Divisions should publish over their signature in the *Calcutta Gazette*, a statement of all gifts between Rs. 1,000 and Rs. 5,000 in value which have been acknowledged by them in the course of the year. [The list should be in the form enclosed.]\*

(vi) [In all cases specified above]† no report should be submitted and no letter of thanks should issue, until the fact that the donation has been made, or the work executed of the amount or value stated has been verified [by a responsible officer]††

A question has recently arisen as to the proper procedure to be followed by a Head of the Department, if any such donation is made to him. Such cases are very rare, but they occasionally occur, e.g., in the case of the Inspector-General of Civil Hospitals, and the Lieutenant-Governor in Council has decided that in such an event, the Head of the Department concerned should be guided by the above orders in so far as they define the duties of Collectors and Commissioners, except that it would not be necessary to publish the *Gazette* statement referred to at (v). In other words, only donations of over Rs. 5,000 in amount should be reported to Government; gifts of less value should be acknowledged by the Head of the Department.

Ordered that copies of the Resolution be forwarded to all Departments of the Secretariat for communication to the Heads of Departments subordinate to them.

*Ben., Mun., Nos. 227-26T.—R. of 7-8-1913.*

The undersigned is directed to refer to the endorsement from the Municipal Department, No. 1408-17 Medl., dated the 27th July 1911, forwarding a copy of a resolution No. 1406 Medl. of the same date, in which it was stated that donations and endowments on works of public utility, of over Rs. 5,000 in amount or value in any one instance, shall be reported, at the time they are made, to Government by whom they will be suitably acknowledged. A question has been raised whether in the cases of all gifts of over Rs. 5,000, the letters of acknowledgment should be published in the *Gazette*. The Governor in Council is now pleased to direct that publication in the *Gazette* should be restricted to donations of Rs. 15,000 and upwards and that donations between Rs. 5,000 and Rs. 15,000 should be merely acknowledged by official letters from Government.

\*For these words, the words "the list should be in the form prescribed in Mr. Oldham's Circular No. 56M., dated the 1st September 1908" were substituted.

†These words were omitted.

††These words were added.

## Education Committees.

### Standing Education Committees including the Deputy Inspector of Schools, to be appointed by District Boards.

*Ben., Gen. (Edn.), Memo. No. 369 of 18-6-1890, and Mun., Cir. No. L. G.—5-2 of 27-6-1890, to Commsrs.*

In forwarding to the Municipal Department the accompanying extracts\* the undersigned is directed to say that the Lieutenant-Governor in the General Department approves the proposal that every District Board should appoint a Standing Education Committee, of which the Deputy Inspector should be a member.

## Elections.

### Facilities to be given to Government employees to attend general municipal elections.

*Ben., Mun., Cir. No. 32-33M. of 14-12-1893, to Commsrs. and to Dist. Judges and Heads of Depts.*

With reference to the approaching general elections of Commissioners in the various Municipalities in your Division, I am directed to say that the Lieutenant-Governor does not consider it necessary to direct that any courts should be altogether closed, but he desires that every facility may be allowed to employees in Government offices to enable them to give their votes, or otherwise take part in the elections. For this purpose leave of absence should be freely given, only such establishment being required to be present on those days as may be absolutely necessary for the transaction of urgent business.

2. A copy of this letter will be forwarded to District Judges and to the heads of departments under the Government of Bengal, in order that they may make the necessary arrangements in offices under their control.

### Government servants not allowed to vote on behalf of Government at municipal elections.

*Ben., Mun., Cir. No. 2M. of 14-1-1897, to Commsrs.*

During the general election of Commissioners of municipalities, held in December 1893, a case came under the notice of the Lieutenant-Governor, in which certain Government servants voted twice in the elections, once in respect of their private residences and again on behalf of Government as owner of the public buildings in the town. The matter was referred to the Advocate-General, who expressed the opinion

that no person can vote at a municipal election for holdings of which Government is the registered proprietor, and on account of which Government pays rents and taxes. It was clear, he added, from the terms of section 15 of the Bengal Municipal Act, III of 1884, that the qualifications required to entitle any person to vote were personal qualifications, and could not be exercised by any person in respect of Government buildings. With a view to prevent similar irregularities taking place during the next general election, I am to request that this opinion may be circulated for the information and guidance of all Chairmen of municipalities and Government officers residing in the municipalities of your Division.

### **Injunction by Civil Court against the holding of municipal elections.**

*Beng. Munc. Cir. No. 23M of 3-7-1897, to Commsr.*

The Bengal Government circulated a copy of the opinion of the Advocate-General that no Civil Court has authority to issue an injunction (*ad interim* or permanent) against the holding of municipal elections.

### **Report of results of municipal elections or recommendations for the appointment of Commissioners.**

*Beng. Munc. Cir. No. 31M of 4-12-1893, to Commsr.*

Considerable inconvenience is caused in this office by the practice of submitting in one letter reports on the results of elections in several different municipalities or recommendations for the appointment of Commissioners under section 14 of Bengal Act III of 1884. I am therefore directed to request that you will be so good as to submit election reports and your nominations for appointment separately for each municipality. Similarly separate reports should be submitted giving the result of the election of members of each Local Board, whenever that event takes place.

I am to take this opportunity to request that the results of bye-elections held in municipalities to fill up casual vacancies which are notified by you in the *Calcutta Gazette* in accordance with the rules on the subject now in force may invariably be reported for the information of Government in accordance with the provisions of clause 2, section 14 of Bengal Act III of 1884. Unless this is done, it is impossible for Government to maintain an accurate list of the Commissioners of each Municipality.

These orders do not affect those prescribing a general report on the elections which should, as usual, be submitted with the annual reports on the working of municipalities and District Boards in your Division as directed in the Government orders quoted below:—

Circular No. ST.M., dated 3rd October 1887.

Circular No. L. 1-R/3-9, dated 1st July 1890.

Circular No. 15M., dated 30th March 1893.

**Travelling allowances of Government officers conducting municipal elections.**

*Beng. Mun., No. 747 of 6-3-1888, to Commr., Presy.*

To a reference made by the Commissioner of the Presidency Division, the Bengal Government replied that travelling allowance of Government officers conducting elections in municipalities should be paid by Government.

**Question as to how the administration of a Municipality should be carried on when the election of the elected Commissioners of the Municipality is set aside by a Civil Court.**

*Beng. Mun., No. 3752M. of 10-12-1925, to Commr., Dacca.*

Your demi-official letter No. 736S., dated the 3rd November, forwarding a copy of the judgment passed by the Fourth Munsif of Dacca setting aside the election of the 14 elected Commissioners of the Dacca Municipality. It appears that an appeal has been filed against this judgment; in the meantime you raise the question as to how the municipal administration should be carried on until the appeal has been decided or if it goes against the Municipal Commissioners, until effect can be given to a fresh election. I understand that the District Judge has decided the appeal in favour of the Commissioners, the validity of whose elections was challenged, but the case may go to the High Court and the views of Government legal advisers on the point you raised may therefore still be required. The matter was referred to the Legal Remembrancer and the Advocate-General and Government have been advised as follows:—

Under section 13 of the Bengal Municipal Act the number of Commissioners for the Dacca Municipality was specified by notification to be 21—14 elected and 7 nominated. An election took place in March last, the result of which was notified and thereupon Government appointed seven Commissioners. The appointment of these seven Commissioners is not affected by the validity or otherwise of the elections, because under section 14, the appointment is to be made upon notification of the result of the election. The appointment of these seven Commissioners therefore remains valid.

The Bengal Municipal Act nowhere expressly provides for a minimum number of Commissioners who are to constitute the body corporate. At Dacca 21 was the number fixed and they formed the body corporate under section 29. Twenty-one was the maximum number. If at any time the number fell below 21 either by death or resignation the body corporate continued its existence. It would be otherwise if a minimum was fixed by statute. The number falling below a statutory minimum the body corporate would be incompetent to act, it would be in suspension or abeyance but not dissolved. The second proviso to section 13 does not put any limitation upon the reduction of the number. It follows therefore that no minimum has been fixed by the Act. In section 42, however, the quorum has been fixed at 5. Therefore acts which require deliberation at a meeting cannot be performed if the number falls below 5. It may, therefore,

be taken by implication that 5 is the minimum number to constitute the body corporate. The number at present being 7 the body corporate continues and can carry on the municipal administration by virtue of the second proviso to section 13.

Government (Local Self-Government Department) accept the above view.

**Procedure to be followed in defending Government officers in election suits of local bodies.**

*Bcn., L.S.-G., No. 2148-2152 L.S.-G. of 16-6-1926, to Commsr.*

I am directed to inform you that Government have had under consideration the proper procedure to be followed when a Government officer is sued for acts done by him in good faith in connection with the conduct of elections to local bodies or the decisions of disputes arising out of such elections. Instances have occurred in which local bodies have been called upon to pay the cost of defending such an officer and have refused to do so on various grounds such as the following:—

- (i) the local fund cannot be spent for the purpose;
- (ii) the local authority concerned was separately represented in the suit;
- (iii) the appearance of the Government officer to contest the suit was unnecessary and not in the interests of the local body; and
- (iv) the defence of the Government officer was undertaken without the local authority's consent.

It is difficult to say on whom the cost of defending a Government officer in such suits ought to fall; each case must be treated on its own merits. On the one hand, it may be urged that when an officer is sued for the way in which he has discharged the duties imposed upon him by the election rules it is not in the interest of the administration that he should go undefended. On the other hand, the proper conduct of elections is one of the purposes of the Act which constitutes a local body and is ultimately a matter which affects every such body vitally and Government are advised that the costs of law suits relating to the election of the local body may legally be debited to the local fund concerned. Such being the case, the following procedure should be adopted when the Government officer is made a defendant in a suit of this kind:—

These suits being in essence contests between rival candidates they should, as a rule, be treated as such, and it should merely be necessary for the Government officer to file a written statement without taking any further participation in the suit. When it is considered desirable that he should be defended, the local body concerned should be consulted; and it should be decided beforehand whether there should be a joint or a separate defence and whether the local authority will undertake to bear the whole or part of the costs.

When there is time, this consultation should invariably take place before any application is made for Government sanction to the defence of a Government officer in connection with an election suit.

Before the Legal Remembrancer can advise Government he will have to be in possession of, in particular he should know, the full facts of the case and the local body's attitude towards the defence of the Government officer concerned.

When there is no time for full consultation with the local authority before sanction to the defence of the suit is sought from Government, the consultation should take place afterwards and a further report should be submitted at the earliest possible opportunity.

### **Computation of time to elapse between nomination and election in municipal elections.**

*Ben. Mun., Cir. Nos. 12-15-1/2 of 24-1-1919 to Commrs.*

A reference has been recently made to Government regarding the method of calculating the 21 days which, according to rule 14 of the Bengal Municipal Election Rules issued with Government notification No. 4345M., dated the 21st November 1896, should intervene between the date when a candidate for election sends in his name to the Chairman and the date on which the election is held. The question raised is whether there should be 21 clear days, exclusive of (a) the days of nomination and election, and (b) Sundays.

2. Government are advised that the terminal days, *i.e.*, the days of nomination and election should be excluded from the computation, but that Sundays should not be excluded.

### **Changes in the Election Rules.**

*Ben. Mun. (L.S.-G.), Nos. 24-28-T.—L.S.G. of 30-4-1923, to Commrs.*

I am directed to refer to your letter No. 2918 L.S.-G., dated the 30th November 1922, enclosing a letter from the District Magistrate of Hooghly, in which he points out that certain changes are required in the Election Rules framed under the Local Self-Government Act.

2. The repeal of section 18 and the amendment of section 9 of the Local Self-Government Act in respect of Union Board areas has the effect of providing separate qualifications for election to the Local Board in Union Board and non-Union Board areas. Thus, a person residing in a municipality situated in the subdivision, and paying road cess in respect of land situated within the Local Board area, will still be qualified for election under section 13 (2), Local Self-Government Act, since section 13 has merely been replaced in respect of Union Board areas.

Any person, however, residing within a union and qualified to vote under section 7, Village Self-Government Act, is *ipso facto* entitled to be elected to the Local Board [vide section 9 (2), Local Self-Government Act, as amended by schedule I of the Village Self-Government Act].

Under the Village Self-Government Act and the amendment which its schedule has made in the Local Self-Government Act, the qualifications for election to the Local Board are dealt with by statute [section 9 (2), Local Self-Government Act, as amended by the schedule], while in the non-Union Board areas the qualifications are prescribed by Election Rule 27.

Election rules prescribing qualifications, whether of voters or candidates, are ultra vires in Union Board areas, in view of the amendments which schedule 1 to the Village Self-Government Act has made to section 138 (a), Local Self-Government Act.

In these circumstances, all that appears to be immediately necessary is to add a footnote to Election Rules 21 and 27, pointing out that these rules have ceased to apply in Union Board areas where the franchise and the qualifications for a candidate are governed by section 9, Local Self-Government Act, as amended by schedule 1 of the Village Self-Government Act.

3. The whole question is under consideration; but in the meanwhile it has appeared to be desirable to state the existing law at some length in order that separate electoral rolls may be prepared in respect of Union Board and non-Union Board areas where any general Local Board election may occur prior to the amendment of the Local Self-Government Act in this respect.

4. Claims and objections under rule 24 must be decided with reference to the different sets of qualifications in Union Board and non-Union Board areas, as explained above.

**Provision of extra polling centres when voting for election of Local Boards is expected to be heavy.**

*Ben., Mun. (L.S.-G.), Nos. 4392-96 L.S.-G. of 24-11-1923, to Commsr.*

I am directed to invite attention to rules 33 and 37 of the Rules for election of members of Local Boards. Rule 33 provides for the holding of elections in more than one place in a thana and rule 37 authorizes the Magistrate to appoint Assistant Presiding Officers. These rules were framed with the object of avoiding delay in recording votes in thanas where heavy polling is expected. It has been brought to the notice of Government (Ministry of Local Self-Government), that the failure to make use of the powers given by these two rules to fix more than one polling place in a thana and to appoint Assistant Presiding Officers resulted recently in one case in the recording of votes being continued till late into the night and considerable inconvenience was in consequence caused to the voters.

I am accordingly to request that the attention of the District Magistrate in your Division may be drawn to the desirability of providing a sufficient number of polling centres in thanas where heavy polling is expected, in order that the recording of the votes may be completed at each place within a reasonable time.

**Question whether a subsidised doctor of a District Board can canvass for a candidate for election. (Interpretation of rule 51 of the Local Board Election Rules.)**

*Ben., L.S.-G., No. 269T—L.S.-G. of 2-9-1926, to Commr., Burdwan.*

I am directed to refer to the correspondence resting with your memorandum No. 1628 L.S.-G., dated the 14th August 1926, regarding the interpretation of rule 51 of the Election Rules for Local Boards. In your letter No. 1897 L.S.-G., dated the 10th October 1926,



you stated that you were doubtful if a subsidised doctor can be said to be in the employment or pay of a district board, and asked for an authoritative ruling on the point.

2. In reply, I am to say that Government are advised that having regard to the pay which he is getting and the kind of work which he is required to do, the doctor who is subsidised by the Midnapore district board should be regarded as being in the employment and pay of that board within the meaning of the rule.

I am further to say that the Local Self-Government Act gives Government no power to frame any rule directed against a candidate who uses the agency of district board employees to canvass for him.

**Magistrates may enquire into or set aside an election after the declaration of the poll.**

*Ben., Mun. (L.S.G.), Nos. 1-5M. of 2-1-1925, to Commrs.*

The following opinion of the Legal Remembrancer was circulated to Commissioners:—

*Legal Remembrancer's (Mr. H. P. Duval) opinion, dated the 17th July 1923.*

I would point out first that Mr. Smither's judgment cannot be held to be an authority for the proposition that the Magistrate cannot enquire into or set aside an election after the declaration of the poll, as the suit in which he gave that opinion was dismissed by the High Court.

As to civil suits, it is to be remembered that both the present and late Chief Justice have cast doubts as to whether a civil suit lies in all cases of an invalid election. Clearly, section 42 of the Specific Relief Act would empower a person not claiming to be elected to sue for a declaration that the election is invalid. The proviso to section 15 of the Municipal Act (inserted in 1894) does not, by its wording, empower a jurisdiction in the Civil Courts. It only says that any jurisdiction then existing is not taken away by the other amendment made in the section. The material portion (for the present point in issue) of the section is—

“The Local Government shall lay down rules in respect of the mode of election, and the authority who shall decide disputes thereunder.”

Government has accordingly made rules and made the Magistrate the authority. I can find no authority for the proposition that the Magistrate's power to decide disputes ends the moment the poll is declared or that if there is a dispute, arising over the mode of election and what is done on the election day, he cannot decide it after the fact. I, therefore, consider that the Magistrate can decide a dispute as to what took place during the election, and there is no ground for altering what has been the practice for so long without an authoritative decision of the Court that the rule is ultra vires. If in deciding declaration of the poll, it seems to me that to hold this will be reading into the rules and the Act words which find no place in either of

a dispute the Magistrate finds the election is invalid, I see no reason why he shall not order a new election on the well-known principle that a Court has an inherent power to take such orders as are necessary for the ends of justice.

**Procedure regarding publication of the names of the elected and appointed members of the district and local boards.**

*Ben., L.S.-G., Cir. Nos. 4080-4084 L.S.-G. of 22-7-1933, to Commrs.*

I am directed to address you on the procedure to be followed in publishing the names of members of District and Local Boards in Bengal. Prior to the recent amendment of the Bengal Local Self-Government Act in 1932, the names of the appointed as well as the elected members of the boards were published by the Commissioners of Divisions. In certain Divisions the names of the elected and the appointed members of the boards were published at the same time, while elsewhere the names of the elected members were published as soon as the results of election were known and the names of appointed members were published later on receipt of the approval of Government under section 29B of the Act. Now that the power of appointing members of District and Local Boards has been transferred from Commissioners of Divisions to the Local Government under sections 6, 8 and 9 of the Bengal Local Self-Government (Amendment) Act, 1932, the Government of Bengal (Ministry of Local Self-Government) are pleased to direct that the Local Government will henceforth publish the names of appointed members of these bodies. The Commissioners of Divisions will, however, continue to publish the names of elected members of the boards as required under rule 48 of the Election Rules but this should be done as soon as the results of elections are known to them.

2. As section 19 of the Act has not been amended, the Commissioners of Divisions will continue to appoint members in casual vacancies on the District and Local Boards under that section subject to the approval by the Local Government under section 29B and will publish these names as well as those of the members elected under section 19 (1).

3. As regards the publication of the names of municipal commissioners, I am to say that since the power of appointing municipal commissioners are still vested in the Local Government under the provisions of the New Bengal Municipal Act, 1932, as under the old Act of 1884, the Local Government will continue to publish the names of appointed commissioners and the Commissioners of Divisions will publish the names of elected commissioners as before.

**Deposit money of a candidate who stands for election from more than one constituency.**

*Ben., L.S.-G., Cir. No. 6042 L.S.-G. of 6-11-1933, to Commr., Chittagong.*

I am directed to refer to your memorandum No. 1567G., dated the 10th April 1933, forwarding a copy of letter No. 2967, dated the 8th

March 1933; from the Chairman, Noakhali District Board, in which he enquires whether a person who stands as candidate for election from two or more constituencies of the same local board will be required to deposit Rs. 50 each for his candidature from each such constituency or a single deposit of Rs. 50 will suffice for the purpose of section 16A of the Bengal Local Self-Government Act, 1932.

2. In reply, I am to say that Government have been advised that as rule 29 of the election rules under the Local Self-Government Act requires that a candidate must be separately nominated for each constituency there must be a separate deposit of Rs. 50 in respect of each nomination.

3. I am to request that this order may be communicated to all Chairmen of district and local boards in your division.

*Memo. Nos. 6043-6046 L.S.-G., dated the 6th November 1933.*

Copy forwarded to all Commissioners of Divisions (except Chittagong) for information and communication to Chairmen of district and local boards in their division.

### **Elections to seats reserved for minority community.**

*Ben. Mun., Cir. Nos. 1773-1777 M. of 1-3-1933, to Commrs.*

Orders were issued in notifications (1) No. 5717 M., dated the 1st December 1932, and (2) No. 1 M., dated the 3rd January 1933, in regard to the holding of the first general election of commissioners of municipalities under the provisions of the Bengal Municipal Act, 1932. As, however, doubts are felt in some quarters about elections to seats reserved for a minority community, Government are pleased to lay down the following instructions.

2. For the purpose of election to seats reserved for a minority community two different methods have been prescribed for different municipalities.

3. When reserved seats have been allotted to special wards formed by a grouping of the existing wards, the procedure for election which has been prescribed in the special orders under B in notification No. 1 M. of the 3rd January 1933 is simple, and needs no further explanation.

4. Where there are no special wards:—

(i) A candidate need not state in his nomination paper whether he is standing for a reserved seat or a general seat. A candidate of a minority community who stands for election in a particular ward may be elected to a reserved seat or a general seat.

(ii) The names of all candidates, whether belonging to a minority community or not, for whom a poll is to be held, should be included in one voting paper prepared for the election in the ward or in the municipality (if it is not divided into wards) for which they stand.

The number of vacancies for which the poll is to be held will be shown at the proper place on the voting paper.

(iii) It is not necessary to mention in the voting paper the number of seats reserved for a minority community. Any voter may give as many votes as there are vacancies, but not more than one vote to any one candidate. Subject to this restriction a voter is free to give his votes, irrespective of the community to which a candidate belongs.

(iv) On the conclusion of the poll and of the counting of votes, the result of the election to reserved seats should be declared first as laid down in order A-1 (I) in notification No. 1M., dated the 3rd January 1933.

(v) If the number of valid candidates of a minority community is not greater than the number of seats reserved for it, those candidates should be deemed to be elected and their names should be deleted from the final list of candidates, and, if necessary, a poll should be held to fill the remaining vacancies.

5. I am to request that the polling officers may be instructed to explain the orders relating to the conduct of elections to the voters, in the light of the foregoing instructions, before a poll is actually taken.

6. No candidate is required to make more than one deposit under section 25 (I) of the Act, even if he stands for more than one ward, either general or special.

A candidate, even if elected, is liable under section 25 (3) of the Act to forfeit his deposit if he fails to secure more than 10 per cent. of the total number of votes polled in the municipality (if it is not divided into wards) or in a ward for which he stands.

7. Copies of these instructions have been forwarded direct to District Magistrates and Chairmen of municipalities for information.

*Memo. 1778-1893M., dated the 1st March 1933.*

Copy forwarded to all District Magistrates for information.

*Memo. Nos. 1894-1920M., dated the 1st March 1933.*

Copy forwarded to all Chairmen of municipalities (except Darjeeling and Kurseong).

### **Correction of electoral roll.**

*Ben., Mun., order No. 5489M. of 3-12-1934, to Commr., Presidency.*

I am directed to refer to your letter No. 1709M., dated the 24th September 1934, regarding the election of a commissioner of the Krishnagar Municipality. It appears that one of the commissioners of the municipality returned at the general election, held in March 1933, having failed to comply with the provisions of section 57 (I) of the Bengal Municipal Act, 1932, his seat has fallen vacant. You now enquire as to whether, to fill up the vacancy thus caused, the District

Magistrate should at once fix the date for a by-election, under rule 2 (1) (b) of the new Election Rules, published with notification No. 4063M., dated the 1st September 1934, the by-election being held either on the basis of the electoral roll prepared for the general election of the previous year or on the basis of the electoral roll after it has been corrected in the manner laid down in rule 16, or as to whether the election should be postponed till the roll is corrected in April next, as required by that rule.

2. In reply, I am to say that as rule 16 definitely lays down that the electoral roll shall be corrected in April each year subsequent to that in which the general election is held, and as the electoral roll of the Krishnagar Municipality was not corrected in April last in the absence of the new rules at the time, the by-election must wait till next year so that it may be held on the basis of the roll as corrected in April next in the manner laid down in rule 16. The municipal Commisisoners of Krishnagar may be informed accordingly.

*Memo. Nos. 54901-5493M., dated the 3rd December 1934.*

Copy forwarded to all Commissioners of Divisions (except Presidency) for information.

#### **Refund of deposits made by candidates for election.**

*Ben., L.S.-G., order No. 1111T.—L.S.-G., of 14-10-1934, to Commr., Burdwan.*

I am directed to refer to your memorandum No. 1709L.S.-G., dated the 29th June 1934, forwarding, for the information of Government, a copy of your letter No. 1708L.S.-G., dated the 29th June 1934, to the District Magistrate of Burdwan, enumerating the circumstances under which the deposits made by candidates for election to local boards are to be refunded, and to say that as the provision for making a deposit by candidates was inserted in the Local Self-Government Act mainly to discourage spurious candidates, the Government of Bengal (Ministry of Local Self-Government) are pleased to direct that all deposits made by candidates under section 16A (1) should be refunded except those forfeited under section 16A (3) of the Act.

2. I am to request that the local officers and the local bodies concerned may be informed accordingly.

*Memo. Nos. 1112-1115T.—L.S.-G., dated the 14th October 1934.*

Copy forwarded to all Commissioners of Divisions (except Burdwan) for information and necessary action.

*Memo. No. 1116T.—L.S.-G., dated the 14th October 1934.*

Copy forwarded to the Revenue Department of this Government for information.

**Advisability of fresh local board elections if the district board election does not correspond with it.**

*Ben., L.S.-G., order No. 5324 L.S.-G., of 21-11-1934, to Commr., Burdwan.*

I am directed to refer to your letter No. 2314 L.S.-G., dated the 30th August 1934, on the subject of timely reconstitution of the district and local boards in the district of Bankura. It appears that the first meeting of the existing Sadar and Vishnupur local boards was held on the 8th April 1932 and 25th July 1932, respectively, while the first meeting of the district board was held on 15th June 1934, i.e., after a period of about two years. As the local board elections were, until recently, held to be merely preliminary to the district board election, you enquire whether any useful purpose will be served by having fresh local board elections in 1936, if a new district board cannot be constituted till 1938.

2. In reply, I am to say that as section 19 (3) of the Local Self-Government Act, as amended by Act XXIV of 1932, expressly provides that the term of office of the members of both district and local boards shall be four years from the first meeting of each board at which a quorum is present, it is no longer possible for Government to extend or shorten the period of office of the members of any of these local bodies, each of which must be reconstituted at the end of every four years. I am to add that with a view to providing against any difficulty in the election by a local board of members to the district board, the period of office of which does not, as in the present case, correspond with that of the former, Government have finally published, with notification No. 5123 L.S.-G., dated the 9th November 1934, an amendment to rule 54 of the election rules.

Copies of this amendment were forwarded to you with this department memorandum Nos. 5124-5128 L.S.-G. of the same date.

*Memo Nos. 5325-5328 L.S.-G., dated the 21st November 1934.*

Copy forwarded to other Commissioners of Divisions for information.

**Publication of the names of elected and appointed members.**

*Ben., L.S.-G., Cir. Nos. 696-700 L.S.-G. of 19-2-1934, to Commr.*

I am directed to refer to paragraph 1 of this department circular Nos. 4080-4084 L.S.-G., dated the 22nd July 1933, in which it was stated that the publication of the names of elected and appointed members of both the district and the local boards should be made by the Commissioners of Divisions and the Local Government respectively. As rule 60 of the election rules lays down that the names of elected and appointed members of district boards shall be published together in the Gazette, it has been decided to modify so much of paragraph 1 of the circular as relates to the publication of the names of members

of district boards. The Government of Bengal (Ministry of Local Self-Government) are, therefore, pleased to direct that the Local Government will henceforth publish the names of both the elected and the appointed members of district boards. I am to request that in submitting your nominations for appointment to the district boards, the names of elected members of the boards may invariably be submitted to Government.

**Preparation of electoral roll and appointment of a person to perform the function of Chairman of a municipality under rule 46 of the Election Rules.**

*Ben. Mun., order No. 5034M. of 2-11-1934, to Commr., Presidency.*

I am directed to refer to your letter No. 1858M., dated the 6th October 1934, forwarding a copy of a letter No. M. 371-40-33, dated the 1st October 1934, from the Magistrate of the 24-Parganas, in which he recommends the District Magistrate should be authorised, under rule 46 of the Election Rules, to appoint a person to perform the duties of the Chairman in connection with the next general election of the Gobardanga Municipality, as serious mistakes were committed by the Chairman in connection with the publication of the final electoral roll and the scrutiny of nomination papers at the time of the last general election which was declared to be not valid, you also support this recommendation.

2. In reply, I am to say that Government accept the above recommendation. They have, however, been advised that as the power of the Municipal Commissioners to appoint the Committee for the preparation of the electoral roll is derived from section 21 of the Bengal Municipal Act and not from the Election Rules, this power cannot be transferred to the District Magistrate under rule 46 of the Election Rules. The preparation of the electoral roll will thus be under the control of the present municipal executive, which may try to thwart the next election by not preparing the electoral roll properly. In the circumstances, Government have decided to postpone the issue of orders under rule 46 until the electoral roll has been duly prepared.

3. I am, however, to request that the District Magistrate may be asked to call upon the Municipal Commissioners to take up at once the preparation of the electoral roll, if this has not been done already. He may also be requested to watch the progress made by the Municipal Commissioners in this matter and to submit a report to Government as soon as the electoral roll is finally published, as that orders under rule 46 may be issued without delay.

**Election of Municipal Commissioner under the new Act.**

*Ben., Mun., order No. 765M. of 27-1-1933, to Commr., Burdwan.*

In continuation of this department letter No. 568M., dated the 25th January 1933, and with reference to your demi-official letter No. 1429M., dated the 14th December 1932, regarding the Uttarpara municipality, I am directed to say that Government have been advised

by their Law Officers that after the repeal of the Bengal Municipal Act, 1884, on the 1st December 1932, no appointment of commissioners can be made under the old Act. The tenure of office of the old board of municipal commissioners does not expire until a new board consisting of elected and appointed commissioners has been constituted, and the new board has held its first meeting. As the new Act came into force on the 1st December 1932, the old board of municipal commissioners shall, under the proviso to section 2 of the new Act, be deemed to have been constituted under the provisions of the new Act and will carry on until a new board is constituted under the new Act. This means that a fresh election will be necessary in this municipality and I am to request that the municipal commissioners may be directed to proceed with the election in March, at the preliminary stages, regarding preparation of the electoral roll, etc., have been taken up in accordance with the orders issued under section 24 (2) of the Act.

**Legal opinion regarding "resident" and rejection of nomination papers in union board election.**

*Ben., L.S.-G., order No. 1832 L.S.-G. of 5-5-1935, to Commr., Chittagong.*

I am directed to refer to your memorandum No. 5702G., dated the 17th November 1934, forwarding copies of letters No. 8633, dated the 5th November 1934, and No. 8562, dated the 3rd November 1934, from the District Magistrate of Chittagong, regarding disputes in the election of members of the Barkal union board in police-station Patiya and of certain union boards in thanas Raozan and Rangunia in the Sadar subdivision of the Chittagong district. It appears that at the re-election of members of the Barkal union board which was fixed for the 6th November 1934, the name of one Md. Saleh Chowdhury, President of the outgoing board, was included in the register of voters published under rule 5 of the Union Board Election Rules and also in the final register under rule 7. The Circle Officer accepted the nomination paper of Md. Saleh Chowdhury and decided under election rule 9 that he was duly qualified to be a member under section 7 (2) of the Village Self-Government Act. There was, however, a petition objecting to the election of Md. Saleh Chowdhury on the ground that he was not a "resident" within the union according to the High Court ruling reported in 38 C. W. N. 542. The Additional District Magistrate, who heard this petition, decided that Md. Saleh Chowdhury was not a resident within the union board and therefore, not qualified to stand for election. As there was a likelihood of litigation, the District Magistrate has postponed the election and asked for orders of Government on the legal point involved.

2. In connection with the union board elections in thanas Raozan and Rangunia, it appears that the Circle Officer rejected the nomination papers of certain candidates, under election rule 9, on the ground of some slight clerical errors in the spelling of names of these candidates and their supporters in their applications for candidature under rule 8. In certain cases the Circle Officer declared the candidates as duly elected under rule 10 when he found that after the rejection of candidates in the manner stated above the number of the remaining candidates was the same as the number of vacancies. A number of petitions



were submitted to the District Magistrate objecting to the above decision of the Circle Officer. The District Magistrate considers that the matter involves difficult points of law and is bound to cause civil suits. He has, therefore, postponed the elections and has asked for a ruling from Government on the legal position.

3. In reply, I am to say that Government have consulted legal opinion on both the above cases. As regards the case of the Barkal union board, Government are advised that in view of the fact that under rule 9 the decision of the Circle Officer on the point whether the candidates are duly qualified under section 7 (2) is final, the Additional District Magistrate's action in interfering with the decision of the Circle Officer was *ultra vires*. The result is that Md. Saleh Chowdhury stands as a duly qualified candidate as decided by the Circle Officer. As regards the elections in Raozan and Rangunia, Government are advised that the decision of the Circle Officer rejecting the nomination papers on the grounds stated is not covered by rule 9 and hence it is not final. If any nomination papers are rejected in this way and the disputes come up before the polling, the District Magistrate can accept the papers and the election can proceed. But where the candidates have been declared duly elected the election cannot be set aside in view of the provision in rule 25, and in such cases no action can be taken by the District Magistrate.

4. I am to say that Government accept the above opinion. The District Magistrate may be informed accordingly.

*Memo. Nos. 1833-1836 L.S.-G., dated the 5th March 1935.*

Copy forwarded to all Commissioners of Divisions (except Chittagong), for information and communication to the District Magistrates in their divisions.

### **Voting by ballot system.**

*Ben., L.S.-G., Order No. 1073 L.S.-G., of 9-2-1935, to Commr., Burdwan.*

With reference to your memorandum No. 201 L.S.-G., dated the 31st January 1935, regarding voting by ballot in the local board elections in the district of Howrah, I am directed to say that under clause (a) of section 138 read with section 9 of the Local Self-Government Act, the mode of election of members of a local board is to be prescribed by Government by rules. By the rules published with notification No. 592-L.S.-G., dated the 6th February 1931, the ballot system was introduced for local board elections only in the districts of Birbhum and Bankura as an experimental measure, and the amendments made in the Local Self-Government Election Rules by notification No. 2898 L.S.-G., dated the 5th July 1934, were mainly intended to provide for the representation by election of a minority community. The ballot system of voting has not so far been specifically introduced by rules in any other local board. The reference to ballot papers in sub-section (4) of section 16A, which merely deals with deposit by a candidate for election, has given rise to a misunderstanding and Government propose to make suitable amendment in that section at the earliest opportunity.

2. As matters now stand, the position has been carefully examined by the Law Officers of Government and Government are advised that although the rules have none of the detailed provisions for voting except that rule 41 prescribes that the votes are to be recorded by the presiding officer, there is nothing in rule 41 of the Election Rules inconsistent with the use of ballot papers. Even though the provision of sub-section (4) of section 16A was only incidental and did not actually prescribe ballot papers, it is quite possible that in view of that section an election without ballot papers would be held to be *ultra vires*. In the circumstances, in the absence of rules prescribing in detail how the poll is to be taken, any system which involved the use of ballot papers would be legal, but in view of rule 41 of the Election Rules all the votes must be recorded on the ballot papers by the presiding officer or his assistants.

*Memo. Nos. 1074-1077 L.S.-G., dated the 9th February 1935.*

Copy, with copy of the letter to which it is a reply, with annexures, forwarded to the other Commissioners Commissioner of the Rajshahi Division, for information.

**Publication of the names of the elected and appointed members of District and Local Boards, simultaneously.**

*Ben., L.S.-G., Cir. Nos. 5004-5008 L.S.-G., of 16-6-1936 to Commrs.*

I am directed to refer to paragraph 1 of Government order Nos. 4080-4084 L.S.-G., dated the 22nd July 1933, as amended by this department circular Nos. 696-700 L.S.-G., dated the 19th February 1934, in connection with the publication of the names of the elected and appointed members of district and local boards. At present the names of the elected members of local boards are published by you, in the "Calcutta Gazette" as soon as the results of the elections are known, and the names of the appointed members are published by Government. In certain cases, however, it was not possible for Government to publish the names of the appointed members within three months from the date of publication of the names of the elected members with the result that the reconstituted local board could not meet for the first time within this period and consequently the elected members could not make the oath of allegiance within the time prescribed by section 16B (1) of the Local Self-Government Act. In view of the provisions of section 16B (2) civil suits have been instituted in certain cases for restraining the elected members to take their seats on the particular local boards.

2. With the object of removing the possibility of the recurrence of similar situation in future it has been decided that the Local Government will henceforth publish at the same time the names of both the elected and appointed members of local boards. I am accordingly to request that in submitting your nominations for appointment to the local boards, the names of the elected members of the boards may be submitted to Government for publication. Steps are being taken to make necessary changes in rule 48 of the Local Self-Government election rules.

3. I am to add that the names of members elected or appointed to casual vacancies should continue to be published in the "Calcutta Gazette" by the Commissioners of Divisions.

*Memo. No. 5009L. S.-G. of the 16th June 1936.*

Copy forwarded to the Revenue Department of this Government for information.

**Person passing "Alem" examination can vote in local board or union board election.**

*Ben., L.S.-G., Cir. Nos. 5132-5136L. S.-G. of 25-6-1936 to Commrs.*

A question has been raised whether a person who has passed the "Alem" examination of the old scheme Madrasah examinations is entitled to vote at a union board or local board election.

2. It appears that the "Alem" or the former lower standard Madrasah examination is parallel to or is of a higher status than the Junior Madrasah examination. As under clause (iv) of section 7 (1) of the Village Self-Government Act, as amended in 1935, a person who has passed the Junior Madrasah examination, under the old or reformed scheme, is entitled to vote at union board elections if otherwise qualified, a person who has passed the "Alem" examination is also entitled to vote at such elections. Besides, under section 9 (1) (right column) of the Local Self-Government Act, 1885, the qualifications of a local board voter in a union board area being similar to those of a union board voter, a person who passed the "Alem" examination is entitled to vote at a local board election from a union board area. I am, however, to point out that this particular qualification is not recognized for local board elections in non-union board areas.

3. The union board in your division may be informed accordingly.

*Memo. No. 5137 L.S.-G., dated the 25th June 1936.*

Copy forwarded to the Education Department of this Government for information.

**Single deposit by a candidate seeking election from a particular unit and filing more than one nomination paper.**

*Ben., L.S.-G., Cir. Nos. 8407-8411L. S.-G. of 20-11-1936.*

I am directed to refer to section 16A of the Local Self-Government Act, 1885, which requires that a candidate for election as a member of a local board shall make a deposit with the Magistrate of the district and no candidate shall be deemed to be duly nominated unless such deposit has been made. Under rule 29 (1) of the Local Self-Government Election Rules the nomination paper of a candidate for election to a local board, from a particular thana or a special electoral unit, should be accompanied by a duly receipted treasury chalan showing that the deposit required

under section 16A has been made. This clearly implies that a candidate seeking election from more than one thana or special electoral unit should make as many deposits as the constituencies he proposes to stand from.

2. A question has arisen whether a candidate for election from a particular thana or special electoral unit can, after making a single deposit, file more than one nomination paper to make sure that his nomination is not rejected on scrutiny for any technical defect in any single paper. Government are advised that the purposes of section 16A would be served if, in such circumstances, the candidate is allowed to submit more than one nomination paper along with the receipt of a single deposit made under that section. The Government of Bengal (Ministry of Local Self-Government) are, therefore, pleased to direct that a candidate for election from a particular constituency may be allowed to file more than one nomination paper along with the treasury chalan showing that a deposit has been made.

3. I am to add that in view of the similar provisions of section 25 of the Bengal Municipal Act, 1932, and of rule 17 (2) of Municipal Election Rules, the same principle shall apply to municipal elections as well.

*Memo. No. 8412L, S.G., dated the 20th November 1936.*

Copy forwarded to the Revenue Department of this Government for information.

*Memo. Nos. 8413-8414L, S.G., dated the 20th November 1936.*

Copy forwarded to the District Magistrate, 24 Parganas, and Mr. S. K. Mitter for information.

### **Scrutiny of nomination papers.**

*Ben., L. S. G., No. 1066 L. S. G., of 27-2-1937.*

I am directed to forward herewith a petition, dated nil, and its enclosures from Maulvi Rausan Ali Mandal and others with the request that the papers may be forwarded to the District Magistrate of the 24-Parganas for necessary action under section 18B(1) (c) of the Local Self-Government Act, 1885.

2. It appears that one of the two candidates for election from a particular thana to the Basirhat local board filed four nomination papers along with the treasury chalan of a single deposit made under section 16A. The Subdivisional Officer, however, examined only one of the nomination papers and rejected it for a technical defect and refused to examine the other nomination papers on the ground that no separate treasury chalan was filed for them. The other candidate was therefore returned uncontested. It also appears that this scrutiny

of the nomination papers was made just before the issue of Government circular Nos. 8407-8411 L.S.-G., dated the 20th November 1936. As, however, the action of the Subdivisional Officer has not been in accordance with the instructions contained in the circular referred to and as it has, *prima facie*, materially affected the result of the election, the question whether the aggrieved candidate is entitled to any remedy under the provisions of section 18B of the Act, was referred to the law officers of Government.

3. Government are advised that although the scrutiny of the nomination papers by the Subdivisional Officer under rule 30 of the election rules is final at that stage, the election of the returned candidate shall be void if, under section 18B(1) (c) of the Act, the District Magistrate is of opinion that the result of the election has been materially affected by any irregularity in respect of a nomination paper. Government are further advised that the words "any irregularity in respect of a nomination paper" in section 18B(1) (c) include both *improper reception* as well as *improper rejection* of a nomination paper.

The present matter may therefore be decided by the District Magistrate under section 18B(1) (c) of the Local Self-Government Act.

*Memo. Nos. 1067-1070 L.S.-G., dated Calcutta, the 27th February 1937.*

Copy forwarded to all Commissioners of Divisions (except Presidency) for information.

### **Forfeiture of deposit made by a candidate for election to a local board from a plural-member constituency.**

*Ben., L. S.-G., Order No. 1814L. S.-G. of 3-4-1937, to Commr., Rajshahi.*

I am directed to refer to your letter No. 199M., dated the 13th January 1937, in which you enquire whether a candidate for election to a local board from a plural-member constituency should forfeit the deposit made under section 16A of the local Self-Government Act if he fails to secure more than 10 per cent. of the total number of votes polled even if the votes polled by the candidate is more than 10 per cent. of the total number of voters who validly exercised their votes.

2. In reply, I am to say that Government are advised that whether or not the candidate will forfeit his security will depend upon whether his name appeared on 10 per cent. of the valid ballot papers irrespective of the number of candidates for a particular seat. Since, however, the ballot system of voting is not in operation in local board elections except in the districts of Birbhum and Bankura, a candidate should be held to have forfeited his security if the number of votes polled by him is less than 10 per cent. of the number of voters who validly exercised their votes.

*Memo. Nos. 1815-1818 L.S.-G., dated the 3rd April 1937.*

Copy forwarded to all Commissioners of Divisions (except Rajshahi) for information.

**Procedure for proposing and seconding names of candidates for election.**

*Ben., L.S.-G., Cir. Nos. 3706-3710 L.S.-G. of 7-6-1937, to Comms.*

It has been brought to the notice of Government that the principles laid down by rule 54 of the Local Self-Government Election Rules, for the election by a local board of its delegates to the district board, are often insufficiently appreciated and not strictly observed. As a result irregularities have often occurred in such elections and Government had, in many cases in the past, to set aside the elections by annulling the proceedings under section 120 of the Local Self-Government Act. Names of candidates are often proposed and seconded in batches and members are required to vote for one or other of such batches without being allowed the option of selecting individual candidates. Some misunderstandings appear also to exist as regards the number of voting papers to be used for the election of members to the general and special seats.

2. I am to explain that in view of the clear provisions of sub-clauses (a) and (b) of rule 54 (3) of the election rules, each candidate for election to the district board must be proposed and seconded individually and not by batches of more than one at a time. A member of the local board is, however, entitled to propose or second separately more than one candidate provided that he does not propose or second more candidates than there are vacancies to the general or special seats.

After the names of all the candidates including special candidates, have been duly proposed and seconded, and if the provisions of sub-clause (c) of rule 54 (3) do not apply, the President of the meeting shall hand to each member, under sub-clause (d) of the said rule, *only one voting paper* in the prescribed form in which the names of all the valid candidates (including those for special seats) have been entered and call upon the members to record their votes in the prescribed manner. Each member is free to vote for the candidate or candidates of his own choice provided that he does not vote for more candidates than there are vacancies to the general or special seats. The result of the election shall then be declared in the manner laid down in sub-clauses (vi) and (vii) of rule 54 (3) (g), i.e., the special candidate or candidates who polled the largest number of votes shall first be declared to be duly elected to the special seats and then those among the remaining qualified candidates who obtained the largest number of votes shall be declared elected to the general seats.

3. I am to request that the above procedure may be communicated to the district and local boards in your division.

*Memo. No. 3711 L.S.-G., dated the 7th June 1937.*

Copy forwarded to the District Magistrate of the 24-Pargannas for information.

*Memo. No. 3712 L.S.-G., dated 7th June 1937.*

Copy forwarded to the Chairman of the 24-Parganas district board, for information.

*Memo. Nos. 3713-3717 L.S.-G., dated the 7th June 1937.*

Copy forwarded to the Chairmen of the Alipore Sadar, Baraset, Bashirhat, Diamond Harbour and Barrackpore local boards, for information.

*Memo. No. 3718 L.S.-G., dated the 7th June 1937.*

Copy forwarded to Mr. S. K. Mitter, for information, with reference to his letter, dated the 28th May 1937.

**Observance of strict neutrality on the part of Government officials in regard to popular elections.**

*Ben., L.S.-G., Cir. Nos. 5148-5178 L.S.-G., of 15-9-1937, to Comms. and Dist. Mgtes.*

I am directed to say that complaints have been made to Government that in some recent cases, some Government officials have, in disregard of clear instructions issued by Government from time to time, actively or indirectly interfered with the conduct of elections to local bodies. As Government attach great importance to the observance of strict neutrality on the part of Government officials in regard to elections generally and to elections to local bodies in particular, I am to request that the special attention of all officers subordinate to you may be drawn to the orders contained in the enclosed copy of letter No. 851A-D., dated the 21st July, 1915, regarding the attitude to be adopted by Government officials in connection with elections.

2. I am to ask that the importance of strict adherence to these orders may be impressed on all officers, including ministerial officers, subordinate to you and that instances, in which Government officials have been found to have acted in disregard of these orders should be promptly reported to Government.

*Memo. Nos. 5179-5193 L.S.-G., dated the 15th September 1937*

Copy forwarded to the several departments of this Government for information and for communication to the Heads of Departments and officers subordinate to them.

*Memo. Nos. 5194-5197 L.S.-G., dated the 15th September 1937.*

Copy forwarded to the Director of Public Health, Bengal, Surgeon-General with the Government of Bengal, Chief Engineer, Public Health Department, Bengal, Chief Inspector and Secretary, Bengal Smoke Nuisances Commission, for information and necessary action.

*No. 351A-D., dated 21st July 1915, from the Chief Secretary to the Government of Bengal (offg.), to all Commissioners of Divisions and all District and Sessions Judges.*

As a result of the growth of representative institutions throughout the province, and the introduction of the elective principle in the constitution of certain local bodies, the question of the attitude to be adopted by the Government officials in the matter of popular elections has recently acquired some importance, and the Governor in Council considers it desirable to remind all Executive and Judicial Officers that any official interference in such elections is contrary to the general policy of Government.

2. It is not intended that Government officers, who have the right to vote in such elections, should abstain from voting, but in the circumstances of this country there is a risk that, should Government officials take any prominent part in such elections, the electors may consider that their freedom of choice has been to a certain extent curtailed. His Excellency in Council accordingly desires it to be made known that he deems it undesirable that Government officials should take part in anything in the nature of an electoral campaign in connection with such elections, whether by attending election meetings or by canvassing for votes on behalf of any particular candidate.

3. These instructions should be communicated to all officers, including ministerial officers, who are subordinate to you.

#### **Term of office of municipal commissioners.**

*Ben., Mun., Order No. 929M of 18th February 1937, to Commr., Presidency.*

The Chairman of the South Dum Dum municipality has brought to the notice of Government certain difficulties in connection with the next general election of that municipality. It appears that although the first general election of the commissioners of this municipality under section 24 (1) of the Bengal Municipal Act, 1932, was held in March 1933, the names of the appointed commissioners were not published in the "Calcutta Gazette" till March 1934. The result was that the first meeting of the existing municipal board could not be held before April 1934. The Chairman of the municipality enquires whether in such circumstances the next general election of the municipality should be held, under section 24 (3), in March 1937, i.e., exactly four years after the date of the last general election, or whether in view of the provisions of section 56 (1) (a) of the Act the existing commissioners are to remain in office till April 1938 and the election should therefore be deferred. \*

2. I am to explain that the question raised is a difficult one as the Act does not clearly provide for such a contingency. Government are advised that the provision of section 24 (3) is mandatory. As the provisions of section 56 are subject to the other provisions of the Act, the



general election of a municipality must be held every fourth year unless the term of office of the commissioners of a municipality is extended by the Local Government under section 56 (5) of the Act.

The municipal commissioners in your divisions may be informed accordingly.

*Memo. No. 930M., dated the 18th February 1937.*

Copy forwarded to the Chairman, South Dum Dum municipality for information with reference to the correspondence resting with his letter No. 2652M., dated the 5th February 1937.

*Memo. Nos. 931-934M., dated the 18th February 1937.*

Copy forwarded to all Commissioners of Divisions (except Presidency) for information and communication to the municipal commissioners in their respective divisions.

**Fixing date of general election after proper consideration of holidays.**

*Ben., L.S.-G., Cir. Nos. 6773-6777 L.S.-G. of 9-12-1937, to Commrs.*

I am directed to say that complaints have been received from time to time that cases have occurred in which elections have been fixed on dates which were very inconvenient to the electors. In several cases that have been brought to the notice of Government it was found that elections were fixed to be held on days which fell on Hindu or Muslim festival days or on days immediately preceding or following them or on a Friday which is the day for congregational prayer for the Muslims or during the month of Ramzan in which the Muslims observe fast. It is obvious that the fixation of such dates for elections cannot but cause inconvenience to large sections of electors and in some of the cases mentioned above Government found it necessary to request the Commissioners and District Magistrates to take steps to alter the date of election in order to avoid serious inconvenience to the electors and other persons concerned. I am to request that in order that such difficulties may not arise in future, the District Officers subordinate to you may be requested to take steps to ensure strict observance of the following instructions which are laid down for their guidance:—

(i) No general election should be fixed to be held on festival days or on days immediately preceding or following them or on a Friday or during the month of Ramzan.

(ii) As regards the "Id" festivals observed by the Muslims, the day of actual celebration depends upon the visibility of the moon. The festival of "Idul Fitar" follows immediately in the wake of the Ramzan and the festival of "Iduzzoha" lasts for three days. It would be inconvenient for the Muslim voters to attend the polling on days immediately preceding or following these festivals. For the convenience of these electors no election should accordingly be fixed to be held within five days immediately preceding or following these festival days.

(iii) A special election, such as the election of the Chairman or Vice-Chairman of a local body or President of a union board, may be held during the month of Ramzan. But it is desirable that even such elections should not be held on a Friday, unless it is considered absolutely necessary, in which case the time fixed for the election should not be between 9 a.m. and 5 p.m. and in case any such meeting has to be held in the month of Ramzan, the time fixed should always be in the forenoon.

**Adequate arrangements for water-supply for Muslim voters desirous of offering their prayer during election.**

*Ben., L.S.-G., Cir. Nos. 6975-6979 L.S.-G. of 17-12-1937, to Commrs.*

I am directed to say that complaints have been received by Government to the effect that in connection with elections to local bodies considerable inconvenience is felt by Muslim voters owing to the fact that for want of adequate arrangements for water-supply, those Muslim voters who are desirous of offering their prayer (*namaz*) cannot, after the enclosure is closed, perform the ceremonial ablution which is a necessary preliminary to offering of prayer which is compulsorily enjoined on them. This is obviously anything but satisfactory, as the conditions under which voters are called upon to exercise their political rights should not involve the violation of compulsory religious obligations on the part of any section of them. I am accordingly to request that with a view to avoiding such inconvenience to the Muslim voters, all authorities responsible for the conduct of elections to local bodies should be directed to make adequate arrangements for water-supply for the purpose of ablution within the enclosure.

2. The cost of such arrangements should be treated as part of the election expenses and as such should be borne by the local bodies concerned.

**Election of Subdivisional Officers to district boards from local boards.**

*Ben., L.S.-G., Cir. Nos. 8562-8566 L.S.-G. of 30-11-1936, to Commrs.*

I am directed to invite your attention to Government circular No. 21-L.S.-G., dated the 8th March 1911, laying down the principle that Subdivisional Officers should not offer themselves for election to a district board from a local board. An enquiry having been made whether this circular is still in force, I am to observe that Government still adhere to the salutary principle enunciated by the circular, which should not be departed from without previous reference to Government, if the special circumstances in any particular case call for a relaxation of the principle embodied in the circular.

2. I am to request that the local officers and the district and local boards in your division may be informed accordingly.

### **Postponement of the date of election of Presidents of union boards.**

*Ben., Cir., Nos. 1027-1031 L.S.G. of 23-5-1938, to Commrs.*

I am directed to say that the attention of Government has been drawn to a case in which a Circle Officer at first fixed a certain date for holding the meeting for the election of the president of a union board, but subsequently, on an application being filed by three members of the union board asking for a postponement of the election on the ground that one of them was in great worry over the illness of a member of his family and that the two others had some urgent private business to attend to on that day, he changed the date of the election by an order passed on the day previous to the date originally fixed for the election.

2. I am to say that, in the opinion of Government, it is highly undesirable that the date of election of the president of a union board should be postponed on such personal and wholly inadequate grounds and I am to request that instructions may be issued by you to all the Circle Officers in your Division directing them not to order the postponement of such election except in absolutely unavoidable circumstances.

### **Election of Subdivisional Officers to District and Local Boards.**

*Ben., L.S.-G., No. 1072 L.S.-G. of 4-7-1938, to Commr., Burdwan.*

With reference to the correspondence resting with your memorandum No. 1015 L.S.-G., dated the 29th May 1938, I am directed to say that in the circumstances stated therein Government approve, as a special case, of the election of Moulvi Ali Reza, Additional Subdivisional Officer, as a member of the Midnapore district board. I am however, to state at the same time that this constitutes a breach of the Circular No. 21 L.S.-G., dated the 8th March 1911, to which Government attach great importance and that they will not in future approve of the election of the Subdivisional Officer to the district board or any other local body. I am, therefore, to request you to be so good as to ask the District Magistrates in your Division to see that the Subdivisional Officers subordinate to them do not seek election to the local bodies in violation of the circular cited above.

*Membo. Nos. 1703-1706 L.S.-G., dated Calcutta, the 4th July 1938.*

Copy forwarded to other Commissioners of Divisions for information and necessary action.

### **Fixation of date for general election of municipalities.**

*Ben., Mupl. Cir. Nos. 465-469 M. of 7-2-1938, to Commrs.*

I am directed to draw your special attention to the amendments in the Bengal Municipal Election Rules issued with Government Notification No. 3325 M., dated the 15th May 1937, prescribing a new timetable for a general election of the municipal commissioners. I am to

say that under rule 2 of the Amended Municipal Election Rules, the District Magistrate is required to fix the date for a general election at least 7 months before the election and that under rule 3 (2) of the said rules the registering authority, as defined under section 21 of the Bengal Municipal Act, is required to publish the preliminary electoral roll not less than 150 days before the date fixed for the general election. Several cases have recently come to the notice of Government in which it has appeared that either the District Magistrate or the Chairman of the municipality concerned or both omitted through oversight to take timely action in accordance with the rules, with the result that when the mistake was detected it was found that it was too late for a general election to be held within the year in conformity with the time-table prescribed under the Amended Election Rules. This infringement of the election rules necessitated an extension of the term of office of the commissioners of the municipality under section 56(5) of the Bengal Municipal Act which was undesirable and might easily have been avoided. I am to observe that Government take a serious view of these omissions which have delayed the timely reconstitution of the Municipal Board.

I am to request you to be so good as to draw the special attention of the District Magistrates and Chairmen of municipalities in your Division to the new provisions of the Amended Municipal Election Rules so that mistakes of the nature pointed out may not recur.

**Interpretation of the term "every fourth year" referred to in section 24(3) of the Bengal Municipal Act.**

*Ben. Mupl. Cir. Nos. 3218-3222 M. of 26-9-1938, to Commts.*

I am directed to invite a reference to paragraph 2 of this Department letter No. 929M, dated the 18th February 1937 (to the Commissioner of the Presidency Division, a copy of which was forwarded to you with this Department memorandum Nos. 941-34M, dated the 18th February 1937), on the subject of the interpretation of the term "every fourth year" referred to in section 24 (3) of the Bengal Municipal Act, 1932. The attention of Government has recently been drawn to the fact that this expression has not been clearly understood in the sense in which it has been used. I am accordingly to explain that the term "year" as used in the Bengal Municipal Act means a financial year and not an astronomical year of 365 days, and that the "fourth year" as used in section 24 (3) of the Act means the fourth financial year exclusive of the year in which the last general election took place. Thus if in any municipality the last general election took place on any date, say between the 1st November 1937 and the 31st March 1938 (both the days inclusive) of the financial year 1937-38 (as under the rules no general election can take place during the first seven months of the financial year), the next general election must be held on any date during the corresponding period of the financial year 1941-42. It is immaterial for the purpose of the computation of the date of the next general election whether the period between this and the last general election exceeds or falls short of four complete astronomical years. I am to request that the local officers and municipal commissioners in your Division may be informed accordingly.

## Engineers and Overseers.

### Procedure to be adopted by Municipalities in obtaining professional assistance of District Engineers.

*Ben., Mun., Res. Nos. 193M. with Cir. No. 2M. of 15-1-1901, to Commrs., as amended by Res. No. 165L.S.G., with Cir. No. 6-L.S.-G. of 26-1-1912.*

The means by which municipalities should be enabled to obtain the assistance of a competent engineers in carrying out important municipal works, and the terms upon which such assistance should be given them, have given rise to frequent difficulties in cases where municipalities have undertaken special works different in magnitude or character from those with which they are ordinarily concerned. The routine duties of a Bengal Municipality are not such as to require the permanent services of a highly-qualified engineer, and such engineering duties, as they usually undertake, are discharged either by a municipal engineer on a moderate salary and of proportionately moderate qualifications, or, in the case of the less important municipalities, by officers of the overseer class, from whom only an elementary knowledge of engineering can be expected. This arrangement is the natural and indeed the only possible one; and, on the whole, it provides in a satisfactory manner for the ordinary requirements of a municipality. It entails, however, the unavoidable defect that when a municipality desires to undertake a work of any considerable importance, such as a water-supply scheme or an extensive drainage system, it is compelled to employ an engineer from outside. In some instances, a private firm has been employed to do the work. In these cases, the terms of the employment are settled by mutual agreement, and no difficulty has arisen. More frequently, however, the municipality has desired to avail itself of the services of the engineer staff of the District Board, and cases which have come to notice render it desirable to define the circumstances in which the employment of this agency is permissible, and the conditions to which it is subject.

2. It must be borne in mind that, under article 88, Civil Service Regulations all municipalities are entitled to the gratuitous advice and services of officers of the Public Works Department, provided that these can be given without detriment to the public service. Rules have also been laid down by the Government of India to fix the remuneration to be allowed to officers of the Public Works Department for work done for municipalities and other public bodies which is of too extensive a character to be done as a part of their regular duties.

3. The Lieutenant-Governor has, therefore, decided that the relations between municipalities and District Engineers, and the procedure to be adopted by the former in obtaining professional assistance for engineering works, shall in future be regulated by the following principles:—

(1) Municipalities should rely upon their own staff for ordinary engineering work. They should not look to the District Engineer for general supervision, which will be exercised, as far as possible, by officers of Public Works Department, but should apply to the District Engineer only for specific advice or assistance.

(2) When a Municipality requires professional advice or assistance for any work which is too large or too difficult for its own engineering staff, or on which an outside opinion is desired, application should, in the first instance, be made to Government for the services of such an officer of the Public Works Department. If the services of such an officer are available, the terms on which they will be given will be fixed by Government under articles 88 and 91, Civil Service Regulations.

(3) If the services of an officer of the Public Works Department are not available, the municipality may apply to the District Board for the services of the District Engineer. If the District Board considers that the District Engineer can do what is required, without detriment to the discharge of his own duties, it may sanction his employment by the municipality, subject to such conditions as may, under the next succeeding rule, apply to the particular case.

(4) The municipality shall pay the District Board as follows:—

- (a) For the survey (if necessary) and for the preparation of detailed plans and estimates of projects,  $2\frac{1}{2}$  per cent. on the estimated cost of the work (exclusive of the cost of land and of any special establishment likely to be required for executing it), provided that the plans and estimates are approved by the Inspector of Works or Superintending Engineer. Of this, the District Engineer, who prepared the projects, may receive not more than  $1\frac{1}{2}$  per cent. with the concurrence of the Inspector of Works or Superintending Engineer.
- (b) For working drawings and supervision of construction, of  $2\frac{1}{2}$  per cent. on the cost as above. Of this, the District Engineer may receive not more than  $1\frac{1}{2}$  per cent. with the concurrence of the Inspector of Works or Superintending Engineer.

(5) In the case of all works, the estimated cost of which exceeds Rs. 1,00,000 the previous sanction of Government shall be required as to the amount of the fee to be paid by the District Board to the District Engineer.

4. Under these rules District Engineers, in consideration of being permitted to receive special remuneration of large works, are expected to give their professional advice and assistance in minor matters, and in the case of works falling below the prescribed minimum without charge.

## Exhibitions.

**Agricultural Exhibitions and Industrial Shows to be promoted by District Boards by suitable grants-in-aid.**

*Ben., Mun. (L.S. & G.), Cir. No. 53 of 18-1-1908, to Commrs.*

The Government of Bengal requested Commissioners of Divisions to ask District Boards to promote industrial and agricultural shows

by making suitable grants-in-aid, as their funds may permit. Such expenditure is specifically authorized by section 100 (3) of the Bengal Local Self-Government Act, 1885.

## Expenditure.

### Commissioner's power of control over Municipal expenditure.

*Ben., Mun., Cir. No. 16M. of 8-2-1899, to Commrs.*

Instances have been brought to the notice of Government in which it has been found difficult or impossible for Commissioners to exercise the powers of control over the expenditure of Municipalities which are vested in them by section 76 of the Bengal Municipal Act. Cases have occurred in which, when a Commissioner has refused sanction to an item in a municipal budget, the municipality has, nevertheless, continued to employ the establishment or incur the expenditure which had been disallowed, and has disputed or resisted the orders issued by him, the correspondence being often protected over a desirable period. In such cases, the Commissioner has sometimes been forced to eventually sanction expenditure, of which he disapproved, because the money has been actually disbursed (in spite of positive orders to the contrary), and there was no practicable means of enforcing its recovery.

2. Such cases of resistance to the orders of constituted authority are not, it is believed, common, and no alteration of the rules which apply to Municipalities generally is required on this account. But the fact that cases of the kind have occurred points to the necessity of making provision for the effectual enforcement of the Commissioner's statutory power of control over any Municipality which has endeavoured to evade it. The Lieutenant-Governor has therefore resolved to lay down the rule, of which a copy\* is enclosed, which will enable the Commissioner, in certain cases of repeated contumacy, to require the countersignature of the Magistrate or Subdivisional Officer, as the case may be before cheque drawn on the municipal account can be cashed at the District or Subdivisional Treasury respectively. When an order is issued by any Commissioner under this rule, he should communicate to the District Officer the scale or establishment sanctioned by him, and the latter should refuse to countersign any cheque drawn by the Municipality concerned, unless the amount drawn is in accordance with the sanctioned scale. If in any case the rule is applied in respect of a Municipality which banks at a private bank, this privilege will be withdrawn simultaneously with the issue of the order.

### Expenditure on account of the burial and burning of paupers dying within municipal limits.

*Ben. Munpl. letter No. 9T.—M. of 12-4-1930, to Commr., Dacca Divn., and Memo. Nos. 11-14T.—M. of the same date, to other Comrs.*

I am directed to refer to your memorandum No. 6401J., dated the 20th November 1929, and enclosures, regarding the expenditure on

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\* Not given here. The rule is 52A of the Rules for keeping the Accounts of Municipalities.

account of the burial and burning of paupers dying within the limits of a municipality. In inspecting the accounts of the Dacca Municipality, the Examiner of Local Accounts, Bengal, remarked that in view of paragraph 106 footnote (m), of the Bengal Audit Manual, such charges were payable out of the Magistrate's contingent grant. The District Magistrate of Dacca, however, holds that charges should be met from the municipal fund and asks for definite orders of Government on the subject.

2. In reply I am to state that when paupers die within the limits of a municipality in which section 260 of the Bengal Municipal Act, 1884, is in force, the cost of their burial or burning should be borne by the municipality under that section. The Accountant-General, Bengal, has been requested to make an addition to this effect in the footnote of the Manual quoted.

### **Orders requiring Municipalities to spend a certain percentage on particular services, withdrawn.**

*Ben., Mun., Cir. No. 20M. of 1-4-1910, to Commrs.*

In paragraph 834 of their report, the Royal Commission upon Decentralization recommended that all orders requiring Municipalities to spend a certain percentage of their income upon particular services should be withdrawn. The only order of this description current in Bengal is that contained in Government resolution No. 2348, dated the 13th October 1893, which requires Municipalities to provide for the primary education of at least half the boys of school-going age within their jurisdictions, and this has been taken generally to involve the expenditure of at least 3·2 per cent. of their ordinary income. The rule however has never been rigidly enforced, and the Lieutenant-Governor directs that it should now be abrogated. The principle enunciated in 1893 may be adhered to as a suitable standard of expenditure by which the adequacy of the provision made by Municipalities in the matter of primary education may be judged, but there need be no absolute prescription that a specified portion of income must be spent under this head. The Municipalities in your division may be informed accordingly.

### **Avoidance of heavy expenditure by District Boards towards the close of the financial year. Fixation of June as the last month of the working year of District Boards for the purpose of**

*Ben., L.S.-G., Nos. 220-224T.—L.S.-G. of 8-6-1921, to Commrs.*

The attention of Government has been drawn to the heavy expenditure and pressure of work at the end of each financial year which is consequent on the anxiety of District Boards to avoid lapses and spend as much of the allotment for public works as possible before the close of the year. As a result, there is a risk of works being completed with unnecessary haste, of proper supervision not



being exercised over payments and of consequent opportunities for fraud. Another objection is that although March is one of the busiest months of the working season, the engineering staff of the District Boards cannot give the necessary attention to construction work on account of the office work attendance entailed. Again, if new works are to be started sufficiently early in April, previous preparation is necessary, but attention to these preliminaries in March becomes practically impossible if officers are burdened with an abnormal amount of measurement and accounts work.

2. In order to effect an improvement, it has been suggested that the District Board year should be altered so as to synchronise with the working season, which usually extends to June, but this is not possible as the accounts of District Boards are included in the finance and revenue accounts of Government. In the alternative it has been proposed that District Boards should be encouraged to carry forward the balances of the preceding year, and pay for work done in the working season in the beginning of the next financial year. The question was referred to the Conference of Commissioners held in October 1919 which passed a resolution to the effect that District Boards should be instructed to submit supplementary budgets or re-appropriation statements immediately after the close of the financial year so as to provide for the execution of the unfinished works included in the last budget, and avoid the haste to complete and pay for work during the financial year. Government are, however, advised that this recommendation, if given effect to, would not prevent a rush of payments in March. Moreover, as the District Boards generally close their accounts for March at the end of April or beginning of May, the supplementary budgets cannot be sanctioned by the Commissioners before June or July and the expenditure during the first two months of the official year would be unauthorized.

3. After careful consideration, Government have decided to lay down the following instructions for the guidance of District Boards. One of the principal causes of heavy expenditure in March is failure to make prompt payments for work done. It is believed that if sufficient attention is given to the matter, a considerable portion of the outlay that is usually incurred in March could be disbursed in January and February, if not in December. An unduly large proportion of the value of work done is held in deposit to be paid by final bills in March. This practice is reprehensible, and it is particularly desirable that during the later months of the year all works should be paid for promptly and that final bills should not be held over for settlement in March to a greater extent or amount than is absolutely necessary. The principle that no payments should be made in the month of March which would not be made in any other month of the year on the same facts should be followed.

4. Ordinarily the work done in one month is paid in the next. But the existing system results in an attempt to measure and pay in March for as much as possible of the work done in that month as well as for that done in February. This is objectionable, and it should be understood that work done in March should ordinarily be paid for in April. Provision for this purpose should be made in the following year's budget and in making out the programme of expenditure in the financial year work executed in the last month of the year should be eliminated.

5. The belief that the efficiency of a District Board is measured to some extent by its ability to utilize the budget allotments fully and thus to avoid lapses also serves to swell the outlay in March. It is hardly necessary to point out the objections to such an idea. It should be impressed upon the District Boards that it is preferable to surrender budget allotments which cannot be profitably utilised than to spend large sums in February and March merely to avoid lapses. Any allotments which are not likely to be utilized during the year should be brought to notice, so that they may be usefully diverted to other works.

6. An erroneous impression also prevails that mere budget provision for a particular project ensures its early execution. Provision is accordingly sometimes made for schemes before a definite decision has been reached as to their necessity and feasibility. A budget estimate should be based on a reasonably accurate forecast expenditure. This, in turn, must rest on a definite programme of the actual work which it is expected will be done in each month of the year. Provision should not be made for any work of importance, unless the following conditions have been complied with, viz.:

- (a) that the work has duly received final sanction; and
- (b) that the detailed plans and estimates have already been sanctioned, or are so far advanced as to ensure that they will be sanctioned before the commencement of the financial year.

Works sanctioned later in the year will then have to take chance of special allotments from savings or surrenders in the order of their importance, but such allotments should not be made until the work is ready for commencement.

7. As a guide to the preparation of the budget, it will be of advantage to introduce a register of properly prepared projects which have duly received final sanction, and a register of projects which have only been considered. This will encourage District Boards to forecast their requirements sufficiently in advance and help to ensure proper consideration of such requirements before the plans and estimates are started, and place them in a position of sufficient information to enable the preparation of detailed plans and estimates to be taken up without delay. This should not be difficult, seeing that administrative requirements of this nature do not as a rule rise suddenly. This enforcement of these principles may cause a slight restriction of the programme of execution in the first year, but it will result in the building up of a reserve of sanctioned estimates in readiness for the following year's budgeting. Equipped with such data, District Boards should have little difficulty in preparing a working programme which would facilitate expenditure being spread over the entire working season of the year instead of being concentrated in one or two of its last months.

8. A further factor which contributes to swell the outlay in March is the delay that sometimes occurs in the issue of orders sanctioning District Board budgets. Under rules 32 and 56 of the rules (Part IX) published with notification No. 3334 L.S.-G., dated the 20th December 1901, the construction of works cannot be taken in hand until sanction has been obtained to the detailed estimate and

funds have been allotted. It is, therefore, necessary that steps should be taken for the prompt issue of orders sanctioning the budget. As an additional precaution against delay, District Engineers should be supplied in advance of the sanctioned budget with a list of the works which it is proposed to include in it, so that preliminary arrangements, such as calls for tenders, may be taken in hand in sufficient time to permit of the commencement of work at the earliest possible date after 1st April. By careful attention to this point a month or 6 weeks may be added to the effective working season.

9. Delay in making final allotments of the funds which become available later in the year is another cause for the existing state of affairs. This might to some extent be remedied if, as has already been suggested, disbursing officers are made to realize the importance of surrendering freely, and at an early date, any funds that they cannot hope to expend without excessive pressure at the end of the year.

10. The Government of Bengal (Ministry of Local Self-Government) hope that the observance of these instructions will have the desired effect of reducing the heavy expenditure at present incurred by District Boards towards the close of the financial year. As a further measure in this direction they direct that, as in the case of the Public Works Department of Government, the month of June should be regarded as the last month of the working year of District Boards for the purpose of annual maintenance estimates. It should, however, be impressed upon the District Board that the 31st March will continue to be the last day of the financial year, and that consequently every endeavour should be made by their officers to complete and pay for repairs sanctioned for the year as soon as practicable, disbursements, if any, thereafter being debited against the repair estimates of the following financial year.

### **Instructions to reduce heavy rush of expenditure incurred by the District Boards in March every year.**

*Beng., L.S.-G., Nos. 4168-4172 L.S.G. of 15-11-1927, to Commrs.*

I am directed to refer to the correspondence resting with your letters No. 1885 L.S.-G., dated the 28th June 1927, No. 266 L.S.-G., dated the 14th September 1927, No. 3392 J., dated the 30th May 1927, No. 3334 G., dated the 22nd July 1927 and No. 1685 M., dated the 7th June 1927, in connection with the question of preventing the heavy rush of expenditure incurred by District Boards in the month of March every year. After careful consideration of the opinions received, Government have decided that no change need be made in the date of submission of the District Board budgets, as prescribed by rule 24 of the Local Self-Government Account Rules.

2. With a view, however, to prevent the disbursement of money in March at a time when payment cannot be made without undue haste and to clear up certain misunderstandings which seem to be the motive underlying such payments, the Government of Bengal (Ministry of Local Self-Government) have accepted the following suggestions contained in paragraph 36 of the report on the working of the Local Audit Department, 1925-26: First, the District Engineer

should be forbidden by a regular order not to accept any bill of claim after 15th March except under the special order of the Vice-Chairman, which is to be sparingly given. Secondly, the District Board should be advised to provide in each year's budget a lump sum for regrant of savings likely to be effected in the previous year's allotment.

I am to request that the District Boards in your division may be asked to give effect to them.

### **Expenditure on water-supply, including Sanitation. \***

*Ben., L.S.-G., Nos. 196-200T.—L.S.-G. of 25-6-1923, to Commrs.*

I am directed to say that Government (Ministry of Local Self-Government) approve the following resolution passed by the District Board Conference held on the 23rd and 24th March last. I am to request that the District Boards in your Division may be asked to give effect to the resolution with effect from the current year and submit a statement at the end of the year indicating the purposes upon which the money had been spent:—

“That not less than 33 per cent. of the proceeds of the public work cess should be devoted to sanitation, including water-supply.”

### **Legality of expenditure by District Boards in Municipal areas.**

*Ben., L.S.-G., Cir. Nos. 1122-1126 L.S.-G. of 31-3-1925, to Commrs.*

I am directed to address you on the subject of the legality of expenditure by District Boards in municipal areas.

2. It has hitherto been held that as section 1 of the Local Self-Government Act of 1885 excludes from the operation of the Act all places or towns in which the Bengal Municipal Act is in force, District Boards are not empowered to incur expenditure in municipal areas. The Local Self-Government (Amendment) Act of 1908 and the Bengal Laws Act of 1914, however, legalizes the expenditure from the district fund on certain objects in municipal areas. Thus District Boards are authorized by section 65-A to make grants to hostels attached to schools and colleges in municipal areas; under section 64 they may manage and maintain high schools jointly with municipalities and under clause (c) of section 64-A they may establish scholarships at schools in municipalities for the furtherance of technical or any other special forms of education. Section 88-A legalizes the making of grants by District Boards towards the cost of improvement of water-supply within municipal area. But section 1 having been left unamended, the words “the district” or “its district” as used in the Act have been taken to denote, as before, the District Board area only, and all expenditure from the district fund in municipal areas other than those specially provided for by the two Acts referred to above, was still regarded as illegal.

3. Government have recently had occasion to re-examine the question in connection with the payment by a District Board of contributions towards the establishment and maintenance of an agricultural farm within a municipality. The matter was referred to the

**Legal Remembrancer** and that officer has recorded the following opinion as to the objects of the Local Self-Government Act vis-a-vis the Municipal Act:—

A District Board is established for every district, and it has authority for the purposes of the Local Self-Government Act over the district for which it is established (section 6). The object of section 1 of the Act is merely that the District Board has no authority over the municipalities. The municipalities will do their own work in their own jurisdiction, and the District Boards as such cannot supersede or control them. Municipalities have duties to people residing within municipalities, and it is for the municipalities to carry these out, *e.g.*, conservancy and schools for residents, etc. The District Board is entrusted with duties towards those in the district generally and is given the power to carry these out. It is not allowed to spend the district fund on objects of merely municipal importance or affecting only a municipality. Where it has a joint interest with a municipality in a particular purpose, it can work through a joint committee (section 30), the municipal members of which will look after the municipal interests, but where it has a "District Board duty" to perform, it has a free hand to spend money thereon. The mere fact that in carrying out such a duty or exercising a lawful power it has to spend money within the limits of a municipality will not make the expenditure illegal. It is entitled to pay expenditure incurred under the Act independent of whether that is incurred within the district or outside it or within a municipality.

A veterinary hospital or an agricultural farm is a proper object of District Board expenditure under clauses 3 (a) and 3 (d) of section 100 of the Act. Both these are of great importance to the district, and a District Board will be justified in exercising its powers. The law does not require that a veterinary hospital or an agricultural farm or a cattle fair or a melā [section 100 (3)] should be located outside a municipality.

The municipality has its own fund which can be devoted to certain specified objects within the municipality (sections 68-69, Bengal Municipal Act) and which cannot, except in certain specified cases, be devoted to any work outside the municipality unless the same is calculated to benefit the inhabitants of the municipality; even in the case of a municipality, therefore in spite of the restriction, locality is not the criterion for legality of payment. The criterion is whether the money is being spent on an object which benefits the municipality and its residents. Similarly in the case of the district fund there is no restriction as to the locality of payment where the fund is being applied to an object allowed by the Act. If the object is a lawful one under section 53 of the Act, the locality of payment is absolutely irrelevant.

4. Government (Local Self-Government Department) fully accept the above view which removes difficulties which were regarded as a decisive bar against the expenditure of district fund on institutions outside the District Board area. I am to request that a copy of this order should be forwarded not only to District Boards but also to municipalities in your division.

**Legality of the expenditure by the Howrah Municipality of a monthly allowance of Rs. 14 to a clerk of the municipality who is a detenu.**

*Ben., Mun., Order, No. 640T.—M. of 15-9-1934, to the A.-G., Bengal.*

I am directed to refer to your letter No. L.A./6, dated the 4th April 1934, regarding the payment by the commissioners of the Howrah Municipality of a monthly allowance to a clerk of the stores department while he was a political detenu. It appears that the clerk was granted leave on half pay from the 25th September 1930 to 31st December 1930 and a monthly allowance of Rs. 14 from the 1st January 1931 to the 31st March 1934, under rule 74 of the Rules of Business of the municipality. The Examiner of Local Accounts is doubtful if such cases are meant to be covered by this rule and you point out that such expenditure is not contemplated in the Bengal Municipal Act and that it cannot be admitted in audit.

2. In reply, I am to say that Government are advised that it was not legal for the municipal commissioners to grant the leave and the allowances under rule 74 which had no application to the present case. If the clerk was eligible for regular leave of any description, he would have been entitled to the appropriate leave salary. Even if no regular leave was admissible to him, he could have been granted extraordinary leave without pay under rule 98 of the Rules of Business. A resort to rule 74 was thus unjustified in any case.

3. It has, however, since been brought to the notice of Government that the present body of the municipal commissioners have already dispensed with the clerk's services from the 1st April 1934. In the circumstances Government have come to the decision that no further action should be taken in the matter.

4. I am accordingly to request that the amount of expenditure on this account, which has been held under audit objection, may be written off. This has the concurrence of the Finance Department.

**Excess expenditure on budget estimates without making necessary alterations in the budget under section 117 of Bengal Municipal Act.**

*Ben., Mun., Cir. Nos. 2136-2140M. of 12-5-1934, to Commrs.*

I am directed to refer to this department circular Nos. 2074-2078M., dated the 17th March 1933, regarding the submission of budget estimates of municipalities as passed by the Commissioners at a meeting to the Commissioners of Divisions under section 112 of the Bengal Municipal Act, 1932. Attention of Government has since been drawn to certain cases in which after the close of a financial year excess expenditure was found to have been incurred by the Municipal Commissioners on certain items of their budget estimates without making necessary alterations in the budget under section 117 of the Act. Necessary provision to meet such contingencies are being made in the Municipal Account Rules to be framed under section 122. Pending publication of such rules, however, and to remove audit objection Government are pleased to authorise you to sanction expenditure in excess of budget provision, incurred by the Commissioners of any Municipality in your division.

[2. This disposes of your memoranda No. 961M., dated the 16th June 1933, No. 1190M., dated the 19th July 1933, and No. 1413M., dated the 22nd August 1933.]

[ ] To the Burdwan Commissioner only.

*Memo. No. 2141M., dated the 12th May 1934.*

Copy forwarded to the Accountant-General, Bengal, for information.

### **Rush of expenditure in district boards in March.**

*Ben. L.S.-G., Cir. Nos. 1704-1708L.S.-G. of 26-2-1935, to Comms.*

I am directed to invite a reference to paragraph 54 of the report on the working of the local audit department for the year 1931-32 (copy enclosed) in which it was brought to the notice of Government that the usual rush of expenditure in March continued in several district boards. One of the district boards mentioned in the paragraph referred to above contends that it is good from the district board point of view that large payments are made in March as the account for that month are thoroughly audited by the local auditors.

2. I am to observe that this contention can hardly be admitted and that ever district board should rely on its own arrangements for a thorough internal check of its accounts and should on no account relax its internal check in view of the test audit conducted by the local auditors.

3. I am, therefore, to request that you will be so good as to draw the attention of the district boards in your division to the necessity of conforming to the instructions given in Government circular Nos. 4168-4172L.S.-G., dated the 15th December 1927, with a view to avoid rush of expenditure in March.

*Memo. No. 1709L.S.-G., dated the 26th February 1935.*

Copy forwarded to the Accountant-General, Bengal, for information. This disposes of paragraph 54 of the local audit report for the year 1931-32. The issue of this order has the concurrence of the Finance Department.

*Memo. No. 1710L.S.-G., dated the 26th February 1935.*

Copy, with a copy of the above memorandum, forwarded to the Finance Department for information.

### *Rush of payments in March.*

54. In spite of the Government orders Nos. 220-24T.—L.S.-G., dated the 8th June 1921, and Nos. 4168-4172L.S.-G., dated the 15th November 1927, enjoining a reduction of the heavy expenditure now incurred in March, the usual rush of expenditure in March continued in several district boards. For instance, at Rajshahi there were 970 vouchers covering Rs. 1,21,219 in March 1931, against the total annual

payment of Rs. 3,61,625 on 3,541 vouchers, i.e., payment in March alone was about one-third of the total of that in 11 months. As many as 418 bills were paid by the Birbhum District Board on the 31st March alone. It is needless to observe that it is humanly impossible for an accountant to pass such a large number of bills on a single day after exercising the necessary checks over them. Similar rush in March was also noticed in the district boards of Nadia, Dinajpur and Bankura.

### **Sanction of excess expenditure by district boards after the close of the financial year.**

*Ben., L.S.-G., Cir. Nos. 161-165T.—L.S.-G. of 18-5-1935, to Commsr.*

I am directed to state that the attention of Government has been drawn to certain instances in which excess expenditure was found to have been incurred, after the close of a financial year, by District Boards on certain heads of their budget estimates without making alterations and obtaining approval of the Commissioner under section 49 of the Local Self-Government Act within the year. As such expenditure without the sanction of the proper authority is open to audit objection, Government are pleased to authorise you to sanction expenditure in excess of budget provision, incurred by any District Board in your division.

*Memo. No. 166T.—L.S.-G., dated the 18th May 1935.*

Copy forwarded to the Examiner of Local Accounts, Bengal, for information.

## **Extensions of service.**

### **Extension of service to ministerial officers under District Boards.**

*Ben., Mun., No. L.—3S.—1—2-6 of 11-2-1889, to Commsr., etc.*

I am directed to acknowledge the receipt of your letter No. 6537, dated the 17th December 1888, in which, the reference to the grant by the District Board of Hooghly of an extension of service for three years to Babu Bireshwar Gupta, Second Pundit of the Sheakhala Model School, who had attained the age of 55 years, you enquire whether a District Board has power to grant such extensions, or whether the question should in every case be submitted to Government for orders.

2. In reply, I am directed to say that, looking to the fact that powers have been delegated to District Magistrates to consider the cases of ministerial officers subordinate to them, and to permit them, when efficient, to remain in the service up to the age of 60 years, the Lieutenant-Governor considers that similar powers may unobjectionably be delegated to District Boards whenever the District Magistrate, as is always the case at present, is Chairman of the Board.



This order will apply to all ministerial officers under the Board, whether they were rendering pensionable service at the time of their transfer to the control of the Board or not.

## Fees.

### Fees of Army Veterinary Officers appointed as Inspectors under the Glanders and Farcy Act, XX of 1879.

*India, R.A., Cir. No. 14—130-2 of 18-10-1898, Ben., Mun. (Medl.), Cir. No. 139 of 21-11-1898, to Comms.*

In paragraph 3 of Government of India Circular No. 5—27-2, dated the 18th May 1897, it was decided to extend the areas within which Army Veterinary Officers were empowered to act as Inspectors under the Glanders and Farcy Act, XX of 1879, to the area lying within a radius of 5 miles round each cantonment in which they served, or which they periodically visited on duty.

2. Attention has since been directed to the fact that some of the duties under the Act which these officers may be called upon to perform are in addition to those pertaining to their position as Military Veterinary Officers, and it has been recommended that they should in some manner be recompensed for such work.

3. The Government of India are pleased to authorise the grant in future to such officers performing the abovementioned duties of the following fees and allowances:—

(a) For an officer called on to attend at any place within the radius of 5 miles of his cantonment, the payment, by the Municipality or local body requiring his services, of a fee of Rs. 16, plus any expenses incurred in the destruction of any animal, for each consultation irrespective of the number of horses examined; and

(b) In the case of an officer who is asked to proceed beyond 5-mile limit, the payment by the authority concerned of a similar fee, plus travelling and halting allowances on the scales admissible to Army Veterinary Officers when visiting out-stations in the ordinary course of their Military duties, as laid down in paragraph 519, Army Regulations, India, Volume X, Part II, and paragraphs 823 and 824, Army Regulations, India, Volume I, Part I.

In regard to (a), the fee of Rs. 16 will be payable to an officer for each centre at which he makes an examination. For example, should suspicious cases be reported from two or more *serais* or stages on a *dak* line, a separate fee is admissible for the examination made at each place.

### Fees from vendors in municipal market and butchers.

*Ben. Munpl. Cir. Nos. 785-780M. of 24-2-1931, to Comms.*

I am directed to say that questions have been referred to Government (1) whether fees can be realised under section 335 read with

section 336 of the Bengal Municipal Act, 1884, where the vendors in markets are temporary, and

(2) whether license fees can be realised from butchers who use their own premises as slaughter-houses, where no slaughter-house is provided by the municipality, over and above the license fees realised on account of their meat shops under section 261 of the Act

2. I am to say that Government have been advised as follows on these questions:—

(1) Fees can be realised by a municipality under section 335 read with section 336 of the Bengal Municipal Act from vendors who are temporary for the right to expose goods for sale and for the use of shops, stalls or standings in a municipal market as defined in the latter section.

(2) In the case of butchers who use their own premises as slaughter-houses, the municipality may, after they have issued a prohibitory order under section 261, require the butcher to take out a license under that section for the slaughter-house, and also to take out a second license under the same section for using any place outside a municipal market or a licensed market, as a shop for the sale of meat, on payment of fees prescribed, or, to pay under section 335 of the Act rent, tolls and fees for the right to use a shop, stall or standing in a municipal market as defined in section 336. The municipality would not be competent in addition to the license fee for a slaughter-house under section 261 both to levy a second license fee under that section for the use of the shop and also to realise charges for the same premises under section 335 relating to markets.

(3) License fees under section 339 read with sections 337 and 338 of the Bengal Municipal Act are leviable on owners of markets in municipalities in which these provisions are in force. In such markets no fees are payable to the municipality under section 335 of the Act; but license fees under section 261 of the Act would be payable by persons using the market for the purposes detailed in that section if such market falls within local limits prescribed under that section.

(4) The provisions of the Bengal Municipal Act, 1884, discussed above do not affect the powers of the Municipal Commissioners under the Slaughter Houses and Meat Markets Act, VII of 1865, in towns in which this Act is in force.

#### **Fees payable by local bodies for analysis of samples of water.**

*Ben., Mun., Cir. Nos. 44-48T.—M of 22-5-1919, to Commrs.*

I am directed to address you on the subject of the fees to be charged to local bodies for the analysis of samples of water at the laboratory of the Sanitary Commissioner.

## 2. Orders were issued in 1910—

- (1) that if an analysis of any source of water-supply was considered necessary, intimation should be sent to the Sanitary Commissioner, who would arrange for samples to be taken by a special messenger; and
- (2) that a fee of Rs. 20 should be charged for each separate analysis and Rs. 50 for the analysis of all other samples from one locality.

Of recent years, samples of water have been collected once a month from each municipal water works by the sample-takers of the Sanitary Commissioner and these samples have been analysed both chemically and bacteriologically, at the laboratory and reported on by him. The orders about fees do not, however, appear to have been observed. There is no reason why small fees within the means of local bodies should not be charged, and on the advice therefore of the Sanitary Board, the Governor in Council has decided that in future the following fees should be charged:—

- (a) Municipalities provided with water works in connection with which monthly analysis of water are carried out at the Sanitary Commissioner's laboratory should pay consolidated fees as follows:—

Municipalities with an income under Rs. 10,000—Rs. 60 per year.

Municipalities with an income under Rs. 50,000—Rs. 120 per year.

Municipalities with an income under Rs. 1,00,000—Rs. 240 per year.

Municipalities with an income under Rs. 1,00,000—Rs. 360 per year.

- (b) When an analysis of water is made at the Sanitary Commissioner's laboratory at the special request of a local body, the charge for a complete analysis (chemical and bacteriological) will be Rs. 10 a sample or in the case of three or more samples from one locality Rs. 20 for three samples.

3. I am to request that the municipalities in your Division may be asked to make provision in their budgets for 1920-21 and subsequent years in accordance with the scale shown in paragraph 2(a) above and that District Boards may be informed of the fees for examination of samples made at their request.

**Pleaders, who are also Municipal Commissioners, should not be employed in their legal capacity in municipal cases on payment.**

*Ben., Mun., Cir. Nos. 3682-36M. of 30-10-1921, to Commsr.*

It has been brought to the notice of Government that certain pleaders of a court, who were also Commissioners of the local municipality, were paid fees from the municipal fund for their professional services on behalf of the municipality. The Examiner of Local

Accounts, Bengal, in his audit report on the accounts of the municipality, having held that they accepting fees from the municipality, these gentlemen had disqualified themselves to continue in office as Municipal Commissioners, the Commissioner has referred to the question to Government for obtaining competent legal opinion. I am to inform you that in connection with a similar question raised in 1899, the Advocate-General recorded the opinion that by accepting fees from the municipal fund a pleader, who is also a Commissioner of the municipality, would not only become disqualified to continue in office as a Commissioner, but also render himself liable to a fine not exceeding Rs. 500 under the provision of section 57 of the Bengal Municipal Act. Government recognize that this is an inconvenient provision, as it could never have been intended that a municipality should not be able to secure the services of the best and ablest pleaders of the place simply because they are Municipal Commissioners. The point has accordingly been noted for consideration when the Act is next amended. I am, however, to request that, pending the amendment of the law, the municipalities in your division may be warned that Commissioners should not be employed in their legal capacity in municipal cases on payment of fees.

**Fees payable to the subordinate staffs of District Boards for doing outside work.**

*Beng. L.S.-G., Nos. 7-111—L.S.-G. of 2-5-1922, to Commrs.*

In continuation of paragraph 5 of Government order No. 3298-L.S.-G., dated the 22nd July 1921, I am directed to communicate the order of Government with reference to the prayer of the subordinate staff under the Jessore District Board that 33 per cent. of the fees received by District Boards for doing outside works should be paid to their subordinate staffs concerned in the works.

2. The existing orders regulating the grant of fees to District Boards for doing outside works are contained in—

- (1) Government resolution No. 775 E., dated the 22nd March 1899, subsequently amplified by resolutions No. 2384 L.S.-G., dated the 14th August 1901, and No. 2345 L.S.-G., dated the 7th August 1903. These relate to the execution of Government works through the agency of District Boards;
- (2) Government circular No. 18 L. S.-G., dated the 24th March 1910, regarding the construction of police buildings under the supervision of the District Engineer; and
- (3) Government resolution No. 193 M., dated the 15th January 1901, as amended by resolution No. 165 L.S.-G., dated the 26th January 1912, regarding the execution of municipal works by District Boards.

In the case of Government works, other than police buildings, executed by District Boards, a contribution of 15 per cent. of the estimated cost is placed at the disposal of the District Board, which pay

allowances to the District Engineer according to their discretion subject to a maximum of 5 per cent. in the average. It is also open to the Board to give such allowances as they think fit to their subordinate establishment. In the case of construction of police buildings, the District Board are paid 2½ per cent. on their cost, of which a sum not exceeding 1½ per cent. may be paid by them to the District Engineer and his subordinates according to such distribution as may be decided upon by the Chairman. In regard to municipal works, which are now rarely entrusted to them, the District Board receive a fee of 2½ per cent. on the estimated cost (excluding cost of land and special establishment) for the survey and the preparation of detailed plans and estimates by the District Engineer. Of this the District Engineer may receive not more than 1½ per cent. In addition, the District Board are paid, and the District Engineer may receive remuneration at the same rates for preparing working drawings and for the supervision of construction. These rates for the remuneration of District Engineers for municipal works apply to works, the estimated cost of which does not exceed Rs. 1,00,000, while in respect of works of an estimated cost over Rs. 1,00,000 the remuneration is subject to the sanction of Government.

3. The above resumé shows that of the contribution and fees paid by foreign bodies, the District Board pay a portion to their District Engineers subject to the maxima prescribed in the orders quoted. In the case of the subordinate staff the grant of a portion of the fees received for doing municipal works is not prohibited; it is optional with the District Board to make such allowances as they may think fit. In the case of Government works, including police buildings, the District Board have been specifically permitted to remunerate the staff. The District Boards are therefore at liberty to grant allowances to the subordinate engineering and ministerial establishment who assist with any work from the balance of the fees available after paying the District Engineer. The Government of Bengal (Ministry of Local Self-Government) consider it reasonable that the subordinate engineering and ministerial staff should be paid for doing outside work, but it is for the District Boards to decide what proportion of the fees should be paid to them.

#### **Cost of remission of the institution fee in cases transferred from a union court to a civil court.**

*Ben. L.S.G., Cir. Nos. 940-944 L.S.-G. of 19-2-1937, to Comptroller.*

I am directed to invite your attention to the proviso to section 90 of the Bengal Village Self-Government Act, 1919, which provides that when a suit instituted in a union court, is transferred to a civil court under section 74, the fee realized in advance by the union court should be paid from the union fund to the Local Government. This proviso read with the provisions of section 46 (2) makes it clear that the cost of remitting the fee in such cases to the treasury should be paid out of the respective union fund.

2. It has, however, been brought to the notice of Government that the presidents of certain union courts have been deducting the cost of remitting the fees before sending these fees to the treasury. As this practice is clearly against the provisions of the Act, I am to

request that you will be so good as to inform the union boards in your division that the cost of remission of the institution fee in cases transferred under section 74 from a union court to a civil court should be met from the union fund.

[3. I am to add that the Paikherchara union board in the district of Rangpur may be asked to make good the deductions made by the president of the union court for the remission of the institution fee (Rs. 2-5) in a case transferred last year from the union court to the court of the Munsif, 2nd Court, Kurigram.]

[ ] To Commissioner of the Rajshahi Division only

*Memo. Nos. 945-946 I S-G., dated the 10th February 1938.*

Copy forwarded to the Judicial and Revenue Departments of this Government for information.

## Fences. -

### Use of barbed wire fences in public places to be discontinued.

*Ben. Mun. Cir. No. 2T M., of 21 10 1899, to Commrs.*

The attention of Government has been drawn to the practice of erecting barbed wire fencing alongside public roads and paths, and in enclosing public gardens. As this practice is considered dangerous to the public, the Lieutenant-Governor desires that the use of such fencing on Government property may be wholly discontinued. The Municipalities and District Boards in your Division should also be informed that its use is disapproved by Government, and should be discouraged as much as possible.

## Ferries.

### Model Rules under sections 15 and 22 of the Ferries Act, I of 1885.

*Ben. Mun. Cir. No. 5T M., of 8-6 1887, to Commrs.*

In accordance with the instructions contained in Government Circular No. 15T.—M., dated 25th September 1885, draft rules were framed by District Officers and Commissioners of Divisions under sections 15 and 22 respectively of the Bengal Ferries Act, 1885, and were submitted for confirmation by the Lieutenant-Governor. From these the Lieutenant-Governor has caused to be prepared rules under each of the above sections to serve as model rules. I am directed to forward copies\* of these for your information and for circulation amongst the District Officers of your Division, and, at the same time, to observe, that it is not the intention of the Lieutenant-Governor that absolutely

\*Not printed as they are embodied in Collier's Municipal Manual.

uniform sets of rules should be adopted for all districts and divisions. Rules adopted if necessary to suit the circumstances of each district or division, should be framed on the model rules, and I am to request that you will be good enough to submit the rules, when framed, for confirmation by the Lieutenant-Governor and publication in the *Calcutta Gazette*.

**Auction advertisement of settlement of ferries to state that it is subject to Commissioner's approval.**

*Ben., Mun., No. 2268M., and Cir. No. 32M. of 29-8-1892, to Commrs.*

With reference to your letter No. 1381J., dated the 26th July 1892, and previous correspondence, regarding the power of the Commissioner of a Division to set aside or refuse to confirm the settlement of a ferry effected by a District Magistrate under section 9 of the Bengal Ferries Act, I (B.C.) of 1885, I am directed to say that it should always be distinctly specified in the auction advertisement to be published under rules 5 and 6 of the model rules framed under section 15 of the Act, that the settlement of a ferry will be subject to the approval of the Commissioner of the Division.

**Claim of Local Authorities to compensation for diminution of their profits from ferries by action of Railway Companies.**

*India, P. W. No. 728R.T. of 28-9-1897; Ben., Mun., Dept. No. 4806M. of 17-11-1897, to Commr., Presy.*

I am directed to acknowledge the receipt of your letter No. 640M., dated Calcutta, 13th February 1897, submitting a memorial from the Commissioners of the Murshidabad Municipality regarding the effect on the revenues of the municipal ferry between Azimganj and Jeaganj of the opening by the East Indian Railway Company of an out-agency at the latter place, and reporting that the Government of Bengal had decided that the East Indian Railway should pay to the Municipality the sum of Rs. 6,192 in satisfaction of past claims up to the 31st March 1896, and an annual sum of Rs. 1,548 thereafter.

2. In reply, I am to state that the policy of the Government of India in dealing with the question of the establishment by railways of ferries and out-agencies, is to adopt such measures as will enable railways to satisfactorily fulfil the purpose for which they have been constructed and meet the requirements of the districts served by them.

3. So far as through railway traffic is concerned, railway administrations must clearly be held entitled to make any arrangements, within the terms of their contracts and of the Acts by which their proceedings are governed, which may be required for the proper accommodation of their own traffic, whether in the shape of passengers, animals or goods, carried or to be carried over their lines, and no claims for compensation can possibly be recognized on account of the supersession by such arrangements of modes of conveyance previously used. This principle applies as much to ferry crossings established under due authority as to bridges or other integral parts of the line.

4. As regards local traffic, His Honour the Lieutenant-Governor was informed in this office letter No. 617R.T., dated the 4th August 1896, that where existing arrangements adequately meet the public convenience, the Government of India would probably consider that no sufficient ground existed for permitting railways to carry local traffic by means of transport established for the accommodation of through railway traffic, but that on the other hand, when the public convenience is not so served, or is served in such a way as to give ground for complaint of inadequacy, insufficiency or other abuse of a virtual monopoly the Government of India could not by any pledges commit themselves to a protection of such monopoly against the opposition of an efficient service.

In the case of a public ferry, it is in the discretion of the Government at any time to make new arrangements, either with a railway company or otherwise, for the service of the ferry, and the revenue of such a ferry being part of the general revenues, no claim for compensation exists in respect of such new arrangements, except in so far as the administration of the ferry may have been for the time placed in the hands of a Local Authority. In such cases the best plan would probably be that when arrangements are made in the interests of the parties concerned and of the public convenience for the carriage by a railway service of local traffic, the receipts from such traffic might, until the administrative arrangements can be legally altered, be passed on to the authorities who for the time being have a claim to receive them, the railway receiving a reasonable payment for the services rendered.

5. It follows from what has been said above that in the case of the ferry now in question which has been established under due authority for the carriage of railway traffic only, the Agent, East Indian Railway, is right in his contention that no claim for compensation against the company on account of the diminution in the receipts of the Municipality from the neighbouring ferry can be admitted. On the ground stated by the Agent, *viz.*, that these receipts may be regarded as appropriated in order to enable the Municipality to meet charges for which other provision has not been made, the Government of India will not object to the retention by the Municipality of the payments which have already been made. No further payments should, however, be claimed or made.

6. In connection with this point, I am to add that no Local Authorities, whether Municipalities or District Boards, have any proprietary rights in any tolls or ferries which may be made over to them conditionally or unconditionally. They merely work the ferries and take the receipts in pursuance of arrangements which the Government is at liberty at any time to vary or to determine. These arrangements confer no more right to demand compensation for diminution of their profits from a public ferry arising from any legally authorized action by a third party, such as a railway administration, than they would have to sue Government for damages because a ferry, once made over to them to administer, had been withdrawn and their income had suffered in consequence.

7. Any dislocation of the financial arrangements between the Provincial Government and the District or Municipal Boards caused by a diminution of the receipts of any public ferry resulting from the opening of a ferry for railway traffic must be met by such readjustment of those arrangements as the circumstances of the case may demand. I



am to suggest that the present case should be dealt with on that basis, and that if in the opinion of the local Government the resources of the Municipality are likely to be so seriously affected as to call for a remedy, steps should be taken for a fresh adaptation of its means to the charges it has to meet.

### **Division between local bodies of proceeds of ferries connecting two districts.**

*Ben., Mun., No. F-5 F/7-6 of 23-6-1889, to Commr., Patna.*

I am directed to acknowledge the receipt of your letters noted below, in which you discuss the proposal to apply to all ferries in the Patna Division the principle laid down for the settlement of the Patna-Saran ferries. You report that the District Officers unanimously approve the proposal to settle all ferries which connect two districts in one district only on the expiration of the existing leases, but that in regard to the division of the proceeds there has been some difference of opinion. You recommend that the receipts from the combined ferries may be divided equally between the districts concerned, and the variations of income met by a readjustment of the grants from the provincial revenues:—

No. 630G., dated the 19th December 1888.

Nos. 80G. and 87G., dated the 8th February 1889.

2. In reply, I am directed to say that it appears from these letters and the previous correspondence on the subject that a large number of the ferries in the Patna Division are leased from both sides independently, for different periods and at different rates, and that in the case of some of these ferries the receipts are divided between Government, Municipalities and District Boards, among whose assets they were reckoned when the grants from Government to those bodies were fixed. If the receipts from all the ferries to be settled on the proposed system are to be equally divided between the District Boards or other bodies concerned, Government will be forced to recognize the claims of those Boards or Municipalities whose share of the proceeds is diminished to a grant of equal amount from the Provincial Revenues in order to restore their financial equilibrium. This could only be done, without loss to Government, by reducing the money grants to those Boards or Municipalities who have benefited by the change of system, and this could not be arranged if the existing grant was small, or if there was no grant. The proposal is also open to the objection made by Mr. Quinn that in the case of District Boards, who have lost revenue by the change, Government would be substituting a fixed grant for the more elastic receipts from the ferry. These objections seem, of themselves, to be sufficiently strong to out-weigh the advantage of maintaining rigidly the principle of equal division, and it is also to be remembered that the execution of this scheme would necessitate a number of complicated adjustments which would extend over a long period, and would involve a reference to Government in every instance.

3. In view of these difficulties, Sir Stuart Bayley has decided to adopt Mr. Quinn's suggestion, and has ruled that the proceeds of ferries at present settled from both ends shall in future be divided

between the local bodies concerned in the proportions which obtain at present. The division, which will be left to you, should ordinarily be based on the average receipts of the three years preceding. But in the case of all new ferries the receipts should be equally divided between the districts concerned.

### Management of ferries.

*Ben., Mun (L.S.-G.) Cir. No. F-5 F-3-2-6 of 14-5-1889 Cir. No. 30 of 1-12-1904, and Cir. No. 2 of 12-1-1905 to all Comrs.*

The notifications below regarding the management of ferries have been issued by the Government of Bengal, from time to time.

*Notification, dated the 9th May 1889*

It is hereby notified for general information that in the exercise of the powers vested in him by section 36 of the Bengal Ferries Act 1 (B.C.) of 1885, the Lieutenant-Governor is pleased to delegate to District Magistrates in Bengal the power under clauses (d) and (e) section 6 of the Act, to define the limits and to change the course of such public ferries as are under their control.

*Notification No. 400 L.S.-G. dated the 1st December 1904*

In exercise of the powers conferred on him by section 36 of the Bengal Ferries Act, 1885 (Bengal Act I of 1885), the Lieutenant-Governor is pleased to delegate to Commissioners of Divisions in Bengal the following powers conferred upon him by clauses (a), (b), (c) and (f) of section 6 of the said Act, namely:

- (1) to declare what ferries shall be deemed public ferries and the respective districts in which, for the purposes of the Act, such ferries shall be deemed to be situate
- (2) to take possession of a private ferry and declare it to be a public ferry.
- (3) to establish new public ferries, where, in their opinion, such ferries are needed and
- (4) to discontinue any public ferry which they deem unnecessary.

*Notification No. 217 L.S.-G., dated the 12th January 1905*

In exercise of the powers conferred on him by section 36 of the Bengal Ferries Act, 1885 (Bengal Act I of 1885), the Lieutenant-Governor is pleased to delegate to Commissioners of Divisions in Bengal the power conferred upon him by section 35 of the said Act, namely:—

- (a) to order that any public ferry situated in any district in which a District Board has been established under the provisions of the Bengal Local Self-Government Act, 1885 (Bengal Act III of 1885), shall be managed by such District Board;

- (b) to order that all or any part of the proceeds of such ferry and all or any part of the fines levied and compensation received under the Bengal Ferries Act, 1885, in respect thereof be paid into the District Fund; and
- (c) from time to time to vary or annul any order made under head (a) or head (b).

**Divisional Commissioners' control over the settlement of ferries made by district boards.**

*Ben. L. S.-G. Cir. Nos. 3489-3493 L. S.-G. of 9-11-1929, to Commsrs.*

I am directed to refer to this department's letter Nos. 572-76T.—L. S.-G., dated the 24th June 1918, stating that in future settlement of public ferries under the management of district boards should be subject only to the approval of the district board.

2. The Government of Bengal have recently had occasion to examine the position in regard to the control of the leasing of ferries under the management of district boards, and find that the orders referred to go further than the responsibilities of the Commissioner under the Bengal Ferries Act, I of 1885, permit. Section 7 read with section 35 of this Act as amended by Bengal Act V of 1919 provides that the control of all public ferries shall be vested in the local body concerned subject to the direction of the Commissioner of the Division. Section 9 read with section 35 of the same Act provides that the tolls of any public ferry may be leased by public auction for such term as the local body may, with the approval of the Commissioner, direct. The Commissioner cannot therefore divest himself of the functions (a) of direction within the meaning of section 7 of the Act, and (b) of approving the term (*i.e.*, the period) of settlement of ferries settled by auction.

3. Government are advised that the provisions of section 9 of the Act are permissive, not obligatory, and that the local body is not precluded from settling ferries under its management otherwise than by public auction. At the same time the advantages of settlement by public auction as a normal procedure are so obvious that, in the opinion of Government, it must be considered incompatible with the responsibilities of the Commissioner under section 7 to permit settlement otherwise than by auction except with his approval. I am to request therefore that you will be so good as to issue an order to district boards in the exercise of your powers under section 7 of the Bengal Ferries Act, I of 1885, requiring them to obtain your previous approval to any proposal to settle ferries except by public auction.

4. When ferries are settled by public auction it should not normally be necessary to require the approval of the Commissioner to the individual details of the settlement or to the party with whom the settlement is made. In the interests of uniformity and good management, however, it would appear desirable that Commissioners should be acquainted with and approve generally of the terms applicable to the settlement of ferries by various district boards in their jurisdiction. For this purpose district boards should be required to submit for the approval of the Commissioner under section 7 of the Act of 1885 the

normal conditions of settlement of ferries by each district board, including the term (i.e., period) of settlement which requires his specific approval under section 9 of the Act. When these standard conditions have been approved by Commissioners individual settlements made in conformity with them would not require further approval, but settlements departing materially from the standard conditions once approved should be submitted for the individual approval of the Commissioner in the exercise of his powers of direction under section 7 of the Act. It would of course be open to the Commissioner to intervene in the exercise of these powers in the case of any settlement purporting to be made by auction on the standard conditions in which he had ground to believe that material irregularity had occurred.

5. I am to request that the principles laid down in this letter may be communicated to all district boards concerned and be followed in the settlement of ferries in future.

### **Stamping of kabuliyats executed by farmers of public ferries.**

*Benc. Mun., No. 531 T.M., and Cir. No. 5 T.M. of 12-5-1884, to Commrs.*

I am directed to acknowledge the receipt of your letter No. 7P.W., dated the 34th ultimo, in which you enquire whether the *kabuliyats* executed by farmers of public ferries should be stamped in the same manner as those executed by farmers of cattle-pound. You forward an extract from an opinion given by the Legal Remembrancer to the effect that as the *kabuliyats*, in the case of the farming of ferries, are executed in favour of Government, no duty is required to be paid on them under clause 18, Schedule II of the Stamp Act; and as no document is given in exchange for the *kabuliyats*, there is nothing which the farmers are bound to stamp.

2. In reply, I am directed to say that the Lieutenant-Governor agrees with the Legal Remembrancer that the *kabuliyats* executed by the farmers of public ferries do not require to be stamped.

*Benc. Mun., Cir. No. F-K 1-9-10 of 5-11-1888, to Commrs.*

I am directed to acknowledge the receipt of your letter No. 598G.M.—11—2, dated the 20th June last, in which you enquire, at the instance of the Chairman, District Board, Chittagong, whether Government circular No. 5T.M., dated the 12th May 1884, which exempted from stamp duty *kabuliyats* executed by farmers of public ferries in favour of Government, is still in force, and whether it is applicable to farmers under District Boards in respect of public ferries made over to those Boards.

2. In reply, I am directed to say that *kabuliyats* executed by farmers of public ferries in favour of District Boards should be stamped.

**Proposals to acquire private ferries to be accompanied by an estimate of the probable financial results.**

*Ben., Mun., No. 495T.M., and Cir. No. 10T.M. of 23-9-1898, to Comms.*

It has been brought to the notice of Government that proposals for the acquisition of private ferries are occasionally submitted for orders without first ascertaining the amount of compensation likely to be claimed or eventually paid therefor. I am accordingly directed to say that in future, whenever, it is proposed to acquire a private ferry, the proposal should always be accompanied by an estimate of the probable financial results, showing the amount of compensation payable, the annual income, and the estimated cost of maintenance.

**Resumption of private ferries by District Boards.**

*Ben., Mun. (L.S.-G.), No. 2285 of 18-7-1900, to Board.*

I am directed to acknowledge the receipt of your letter No. 600A., dated the 12th May 1900, with which you submit, for the consideration and orders of Government, a report on a case in which payment was made of compensation for the closing of a private ferry in consequence of the construction of a bridge by the District Board of Dinajpur. The Board enquire whether on a similar case occurring, it should be taken up to the High Court, and, if necessary, to the Privy Council, or, if this is not to be done, what course Government would prescribe for adoption. Reference is made to a suggestion previously put forward by the Board, that the best course might be to resume the ferry likely to be affected under Bengal Act I of 1885, and subsequently to resort to proceedings under the Land Acquisition Act.

2. In reply, I am to forward, for the information of the Board, a copy of the opinion of the Hon'ble the Advocate-General on the question raised in your letter, and to say that the Lieutenant-Governor agrees with the Advocate-General in considering that an appeal would be useless.

3. As regards the Board's suggestion referred to above, I am to say that the Lieutenant-Governor agrees with the view expressed in the concluding portion of the Advocate-General's opinion. If Government resumed a private ferry before making a bridge, it would under section 17 of Act I (B. C.) of 1885, have to pay 15 times the net profits of the ferry, while under the Land Acquisition Act it would have to pay the market value, which might be more. If it were so, the higher payment would clearly be equitable. Every claim to private ferry right should be closely and jealously examined; but if the claimant has rights at all, His Honour is of opinion that the provisions of the Land Acquisition Act cannot justly be departed from.

*Opinion.*

I am of opinion that the decision of Macpherson and Wilkins, JJ., in Indian Law Reports, 25 Calcutta, 346, is correct, and that it would be useless to carry any similar case which may hereafter arise and be decided in conformity therewith in appeal to the Judicial Committee of the Privy Council.

Section 6 (1) of Act I of 1894 enacts that "Subject to the provisions of part VII of that Act, whenever it appears to the local Government that any particular land is needed for a *public purpose* or for a company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its order", and by section 6 (2), the "declaration must be published in the official gazette and must state the district or other territorial division in which the land is situate, the *purpose for which it is needed*, its approximate area, and where a plan shall have been made of the land, the place where such plan may be inspected."

And, on the question of compensation which is to be awarded to the persons interested in the land under the Land Acquisition Act, 1894, section 23 (1) provides "in determining the amount of compensation to be awarded for land acquired under that Act, the court shall take into consideration", *inter alia* fourthly, "the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner or his earnings".

As the Judges of the High Court have based their decision, in the case under consideration, mainly on English cases decided by the House of Lords on the corresponding section of the Lands Clause Consolidation Act, 1894, it is necessary before considering the effect of such decisions to refer to that section of that statute. Section 40 of 8 and 9 Vict., Cap. 18, enacts "where such inquiry shall relate to the value of lands to be purchased and also to compensation claimed for injury done, or to be done, to the lands held therewith, the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands required for the works and for the sum of money to be paid by way of compensation for the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this Act or the special Act, or any Act incorporated therewith."

In *Cowper Essex versus Local Boards* for action, 14 appeal cases 153, Lord Halsbury, L. C., at page 161, states: "I take it that two propositions have now been conclusively established. One is, that land taken under the powers of the Land Clauses Act, and applied to any use authorized by the statute cannot by its mere use, as distinguished from the construction of works upon it, give rise to a claim for compensation. But a second proposition is, it appears to me, not less conclusively established and that is, that where a part of proprietor's land is taken from him, and the future use of the part so taken may damage the remainder of the proprietor's land, then such damage may be an injurious affecting of the proprietor's other lands, though it would not be an injurious affecting of the land of labouring proprietors from whom nothing had been taken for the purpose of the intended work".

It may seem at first sight a little strange that what is injurious affecting in one case should not be in the other. But it is possible to explain that apparent contradiction by the consideration that the injurious affecting by the use as distinguished from the construction, is a particular injury suffered by the proprietor from whom some portion of his land is taken different in kind from that which is suffered by the rest of Her Majesty's subjects.

And Lord Macnaghten at page 178 of the same case, states: "When lands are required for the purpose of a public undertaking and the owner claims compensation for injury to other lands held therewith, I think the tribunal which assesses compensation is bound to take into consideration *the purpose* of the undertaking, the consequences likely to result from the execution of the works on the lands required, and any alteration in the character of the property which those works are calculated to bring about."

In the case in Indian Law Reports, 25 Calcutta, 346, the whole question was what compensation was to be paid to the Maharaja of Dinajpur for the loss of his ferry by reason of the acquisition of his adjoining lands for the purpose of constructing a bridge. In my opinion the Judges were quite right, the English Statute and Indian Act being *in pari materia* as regards the injuriously affecting of the other property of the owner whose land has been acquired in coming to the conclusion that the word "acquisition" as used in section 23 includes the purpose for which the land is taken as well as the actual taking, and that the declaration of the Government that the land was wanted for a purpose which would entirely destroy that ferry, the proceedings taken and the actual acquisition of the land for that purpose must have considerably affected the letting or selling value at the time of the acquisition. In other words, in following Lord Halsbury and Lord Macnaghten in declining to award compensation for the lands taken up without considering the purpose for which the acquisition was made and the damage which such acquisition was likely to cause to the other land of the expropriated owner by the lands so taken up being used for the purpose for which it was statutorily acquired.

Act I (B. C.) of 1885 enables the Lieutenant-Governor of Bengal to take possession of a private ferry and declare it a public ferry. It would be a fraud upon that Act to take possession of a private ferry not for the purpose of making it a public ferry, but for the purpose of enabling the Government to acquire it at a lower scale of compensation than that to which the owner would be entitled under the Land Acquisition Act. The course proposed in paragraph 8 of the Board's letter should therefore not be taken. To do so would be to use the Act for a purpose for which it was not intended.

### Registration of ferry Kabuliyats by farmers.

*Ben., Mun. (L. S. -G.), Cir. No. 5T. M. of 28-4-1904, to Comms.*

I am directed to invite your attention to this office circular No. 331. S.G., dated the 5th November 1903, in which instructions were issued that the receipts given by Registering Officers for *kabuliyats* executed by pound farmers in favour of District Boards should be endorsed by the executants at the time of registration in favour of some officer of the District Board concerned, in order to enable the Registering Officer to make over the documents to the District Board immediately after registration.

2. I am now to say that the Lieutenant-Governor considers it desirable that the same arrangement should be made in the case of ferry *kabuliyats* as in the case of a cattle pound *kabuliyats*.

3. I am to request that the requisite instructions may be issued to all District Boards in your Division, and to say that the Registering Officers will be communicated with through the Inspector-General of Registration.

**Realization under Public Demands Recovery Act of arrears of revenue on account of pounds and ferries managed by District Boards and Municipalities.**

*Ben., Mun., Nos. 1306-17 of 21-4-1888, to Commr.*

I am directed to acknowledge the receipt of your letter No. 80M.G., dated the 17th December last, in which you ask for an authoritative decision on the question whether pound rents, which are now payable to District Boards, may be regarded as public demands within the meaning of the Public Demands Recovery Act.

2. In reply, I am directed to say that the Lieutenant-Governor is advised that pound rents, though payable to District Boards, are still public demands, and may be recovered by the certificate procedure. The use of the words "the following public demands" at the beginning of section 7, Act VII of 1880, make the sums mentioned in clause 8 public demands by definition. It only remains to determine whether the District Board is a "public officer of Government". On this point the Lieutenant-Governor is advised that the District Board, being a public body engaged in governing the district and exercising the functions of a Magistrate under the Cattle Trespass Act, clearly comes within the definition of a public officer of Government.

*Ben., Mun., No. 5 T.M. of 25-5-1888, to Commr., Dacca.*

In reply to your letter No. 771J., dated the 14th ultimo, I am directed to say that arrears of revenues on account of ferries managed by the District Boards can be realized under the Public Demands Recovery Act.

2. As regards the question whether arrears of revenues on account of pounds and ferries managed by Municipalities can be so realized on the requisition of the Chairmen of Municipalities, I am to say that, so far as the pounds are concerned, the arrears of revenue can be realized by the certificate procedure, inasmuch as municipalities, being vested with all the powers of the Magistrate under Chapters I and III of the Cattle Trespass Act, come within the definition of "a public officer of Government" mentioned in clause (8), section 7 of Act VII (B. C.) of 1880. The question as it affects ferries under Municipalities has been referred to the Legal Remembrancer for opinion, and on receipt of his reply a further communication will be made to you.

*Ben., Mun., No. 71T.M. of 28-6-1888, to Commr., Dacca.*

In continuation of Government order No. 5T. M., dated the 23rd ultimo, I am directed to state that the Legal Remembrancer is of opinion that arrears of rents on account of ferries managed by municipalities can be realized as public demands under the Public Demands Recovery Act, VII (B. C.) of 1880.



## Transfer of the income and management of provincial ferries to local bodies.

*Bengal, L.S.-G., No. 220-23T—L.S.-G., of 9-10-1927, to Commsrs., except Chittagong.*

I am directed to refer to the correspondence resting with your memorandum No. 1412 L.S.-G., dated the 20th July 1927, letter No. 143 L.S.-G., dated the 30th May 1927, memorandum No. 6578 J., dated the 22nd September 1927, memorandum No. 411 P.W., dated the 8th July 1927, regarding the transfer of the management and income of provincial ferries to local bodies.

2. After careful consideration of the replies received in response to this department circular Nos. 827-30 L.S.-G., dated the 4th March 1927, Government are pleased to direct that with effect from 1st April 1927 the management of the ferries named in the enclosed statements\* A and B be transferred to the district boards and municipalities, respectively, mentioned against each, the proceeds being distributed in the manner indicated in the last column thereof. I am now to request that in order to give effect to this order, so far as it relates to district boards, you will be so good as to issue notifications under section 35 of the Bengal Ferries Act in exercise of the power delegated to you by notification No. 217 L.S.-G., dated the 12th January 1905. As clause (b) of this notification does not authorise you to order what portion of the proceeds should be paid to the municipal fund, the share of the proceeds which each Municipality will get may be mentioned in the memorandum giving cover to the notifications to be issued by you. So far as the Municipalities are concerned this order should be regarded as the formal order sanctioning the transfer.

3. In both cases the transfer is subject to the following conditions:—

- (i) That the local authority concerned should take over such stock as landing ghats, boats, etc., which Government have decided to hand over free of charge.
- (ii) That in case of ferries which have already been settled the local authority concerned should abide by the terms of such settlements; on their expiry it will be at the discretion of the local authority either to lease them out or keep them under direct management.
- (iii) That in cases of ferries plying within the jurisdiction of two different local bodies, each should keep the platforms and approach roads within its own area in proper repairs.

†It appears from the last paragraph of Mr. Peddie's letter No. 2021, dated the 19th April 1927, that Government pay a rent of Rs. 390 to the Mathurapur Zamindari Company for the use of the foreshore land on one side of the Rajmahal ferry. Government direct that with the transfer of this ferry the District Board should take over this liability. Government are further pleased to direct that, in consideration of the fact that the proceeds of the Fulbari ferry which roughly amount to Rs. 1,755 will be credited to the English Bazar

\* Not printed.

† To the Commissioner, Rajshahi Division, only.

Municipality, the annual grant of Rs. 650 sanctioned in Eastern Bengal and Assam Government letter No. 516F., dated the 17th November 1905, be discontinued with effect from the current year. As regards the transfer of the Kurki-Adajna khas mahal ferry in the district of Pabna and the ferries in the Naogaon subdivision, a further communication will be made. I am to enquire whether the latter ferries are khas mahals.

\*It appears from the statement appended to your letter No. 143 L.S.G., dated the 30th May 1927, that the Ranaghat Municipality gets a contribution of Rs. 500 a year from Government for the maintenance of approach roads to the Ranaghat ferry. Government are pleased to direct that in consideration of the fact that half the proceeds of this ferry, which amount to roughly Rs. 1,700, will be credited to the Municipality, the contribution of Rs. 500 be discontinued with effect from the current year.

A further communication will be made as regards the transfer of the ferries (Radbar Ghat, Gora Bazar and Nabadwip) in the districts of Murshidabad and Nadia.

#### Registration of pound and ferry kabuliyat forms.

*Beng. L.S.-G. Cir. Nos. 3268-3271 L.S.-G. of 27-8-1930*

A complaint has been received by Government that the registration of a pound kabuliyat executed in the usual stamped printed form has been refused by the Sub-Registrars to whom they were presented for registration, on the ground that no space at the top of the form between the stamp and the printed matter was kept to admit of the registration seal, etc., being affixed thereto. As these stamped forms are printed by Government and are stocked in, and sold from, the treasury, Government have been requested to issue orders for keeping such blank space at the top of the form as may be required by the Registration Department, when the form is next reprinted. Government, however, do not think that the issue of any special instruction on this point is necessary, as Registration Rule 74 reproduced at page 98 of the Bengal Registration Manual, 1928, authorises registering officers to make the necessary endorsements on separate sheets of paper when there is no room for making them on the document itself.

2. I am to take the opportunity to make the following observations on the printing and stamping of the pound and ferry kabuliyat forms. The present practice is that the pound kabuliyat forms are printed by Government on stamped paper and the ferry kabuliyat forms are printed by the same authority on unstamped paper and both these forms are kept available for sale to district boards and municipalities. In some cases the local authorities make their own arrangements for printing the ferry kabuliyat form. The reasons for according different treatment to the pound and ferry kabuliyat forms may be explained thus. The pound kabuliyat forms are treated as *bonds* and are chargeable with stamp duty. Under rule 6 of the Indian Stamp Rules these instruments, except in Calcutta and Chittagong where the Collectors have been authorised to use special adhesive stamps on blank forms,

\* To the Commissioner of the Press and Printing Division only.

must be written on paper on which a stamp of the proper value has been engraved or impressed. The ferry kabuliyat forms, on the other hand, have not hitherto been regarded as chargeable with stamp duty as the ferries mostly belonged to Government and the kabuliyats executed in favour of Government were exempt from the payment of stamp duty [vide proviso (1) of section 3 of the Indian Stamp Act, 1889]. The kabuliyats executed in respect of ferries managed by local bodies are not, however, so exempt and with the transfer of the ferries to local bodies the position of ferry kabuliyats in regard to their liability to stamp duty has changed and has become the same as that of the pound kabuliyat form, or in other words, they have now to be executed on impressed stamp paper. If, therefore, these instruments are executed on printed forms without impressed stamps they will not be valid under the Stamp Act. In these circumstances I am to request that the district boards and municipalities in your division may be asked to discontinue the use of standard forms for ferry kabuliyats and, pending final decision on this point, to execute such kabuliyats in manuscript on impressed stamps.

3. In conclusion, I am to enquire whether the district boards and municipalities in your division would wish to have the standard ferry kabuliyat form printed on impressed stamp paper as in the case of pound kabuliyats and, if so, what their annual consumption is likely to be.

*Memo. No. 3272 L.S.-G., dated the 27th August 1930.*

Copy forwarded to the Commissioner of the Dacca Division with reference to his memorandum No. 4609 J., dated the 2nd September 1929, for information and necessary action on paragraphs 2 and 3 above.

### **Revision of pound and ferry kabuliyat forms.**

*Memo. No. 4609 J., dated the 2nd September 1929, by the Commissioner of the Dacca Division.*

Copy of the following with enclosure submitted to the Government of Bengal, Local Self-Government Department, for favour of issuing necessary orders to the Press and Forms Manager, Bengal.

*No. 5331 L.R., dated the 21st August 1929, from the Collector of Bakarganj, to the Commissioner of the Dacca Division.*

I have the honour to enclose a copy of letter No. 1801, dated the 15th August 1929, from the Chairman, Bakarganj District Board, regarding the insufficient space at the top of the form of kabuliyat to be executed by farmers of cattle pounds and to state that the request of the Chairman seems reasonable. I, therefore, request you to be so good as to move Government to make necessary arrangement to get the forms printed in future keeping sufficient space at the top.

*No. 1801, dated the 15th August 1929, from the Chairman, Bakarganj District Board to the Collector, Bakarganj.*

I have the honour to enclose the kabuliyat executed in the stamp printed form by Ujjatali Khan and Taher Molla as lessee of the district board pound at Krishnakati in Bakarganj police-station, and to say that the registration of the document, as stated by the said lessees, has been refused both by the Sub-Registrar of Bakarganj and of Kotwali on the ground that no space at the top of the form (between the stamp and the printed matter) has been kept to admit of the registration, seal, etc., being affixed thereto. These stamped forms for kabuliyats required to be executed by farmers of pounds and ferries are printed by Government and are stocked in and sold from the treasury. The district board or the lessees have no hand in the printing of these forms. I would accordingly request you to be so good as to move the proper authorities for issuing orders for keeping such blank space at the top of the form as may be required by the Registration Department when the form is re-printed next time. Meanwhile, I shall be obliged if, until revised forms with sufficient blank space at the top are available at the treasury and so long as the existing stock of these forms at the treasury is not used up, you will kindly request the District Registrar, Bakarganj, to instruct all the sub-registry officers in this district to admit registration of pound-ferry kabuliyats in the existing form, the registration, seal, etc., being affixed on the back or at any other convenient part of the document.

2. After the issue of necessary instruction to the Registration Department the attached kabuliyat may be returned for its registration by the lessees.

### **Management of ferries by local bodies.**

*Beng. L.S.G., Cir. Nos. 1474-1478 L.S.G. of 30-3-1932, to Commrs.*

I am directed to say that the attention of the Government of Bengal has been drawn to recent accidents in the running of ferries under the control of local authorities, resulting in the loss of life, which tend to show that local authorities are not sufficiently alert to their responsibilities for seeing that ferries under their control are conducted with proper regard to public safety.

2. The law in regard to the conduct of ferries by local authorities is complicated, but for present purposes it may be summed up as follows:—

Under section 150 of the Bengal Municipal Act III of 1884 "Every municipal ferry" referred to under sections 148 and 149 of the same Act "shall be maintained by the Commissioners who shall do all things necessary to provide for the safety and convenience of travellers, and the safety of property to be conveyed on such ferries."

3. Ferries maintained by district boards are subject to the provisions of the Bengal Ferries Act, I of 1885, under section 15 of which rules may be made prescribing *inter alia* the number and kind of boats, their dimensions and equipment, the number of crew to be by the lessee and the maintenance of such boats in good condition.

The power to make these rules has been transferred to district boards in the case of ferries placed under their management under section 35 of the Bengal Ferries Act.

4. Model rules have been prescribed under the Bengal Ferries Act which include provision for the marking of carrying capacity and maximum weight permitted (vide rules 19 and 19A). It will be observed that these rules are somewhat vague as regards maintenance and running with due regard to general precautions for the public safety. There are no such rules at all under the Bengal Municipal Act, but the model rules under the Ferries Act have been regarded as generally applicable to municipal ferries. Government have no information as to which district boards have adopted the model rules under the Ferries Act, or which municipalities have made rules of their own for the conduct of their ferries; but assume that the former is the case with practically all district boards, while few, if any, municipalities have drawn up rules and instructions on the subject. The general result is to leave a certain amount of vagueness as regards the responsibility for seeing that a ferry when leased out is conducted by the lessee with due regard to the public safety in all respects and on all occasions.

5. I am therefore to request that it may be made clear to all local authorities in your division, which may have charge of ferries, that Government regard such local authorities as responsible for ensuring that the lessee pays due regard to the public safety in the maintenance of the ferry and that any local authority which is found at fault in this respect in regard to a ferry, the management and proceeds of which have been vested in it by Government, will be liable to have the ferry withdrawn from its charge.

6. I am further to request that District Magistrate may be instructed to regard the management of ferries by local authorities with a view to maintaining an adequate standard of consideration for the public safety as a matter falling within the general supervision of the District Magistrate and subject to his inspection.

## Fines.

### Disposal of fines realized within municipal limits through the action of the police.

*Ben., Mun., Nos. 25-28T.M. and Cir. No. 17M. of 6-4-1885,  
to Comms., etc.*

I am directed to acknowledge the receipt of your letter No. 126L.—G. M., dated the 3rd February last, in which you suggest that, as the charge of maintaining the police in municipalities is now borne by Government the following fines realized within municipal limits through the action of the police should no longer be credited to municipalities, but should form assets of provincial revenues:—

- (a) Fines levied under section 14 of the Gambling Act, II(B.C.) of 1867.

- (b) Fines levied for neglect of duty, absence, etc., from police officers paid by municipalities; and
- (c) Fines levied under section 34 of the Police Act, V of 1861, for nuisances committed within municipal limits.

2. In reply, I am directed to say that, after a full consideration of the question, the Lieutenant-Governor is pleased to direct that fines levied under the Gambling Act, and those realized from the police in municipalities for neglect of duty, etc., should be credited to Government with effect from the 1st instant. Proceeds from fines levied for nuisances committed within municipal limits should, however, be made over to municipalities as heretofore.

**Fines realized under Cattle Trespass Act, I of 1871, and those imposed under bye-laws made under section 139 of the Bengal Local Self-Government Act, III of 1885.**

*Mun. (L. S.-G.), No. 307, and Cir. No. 3 of 5-2-1892, to Commrs.*

I am directed to say that the Lieutenant-Governor sanctions the proposal to credit to the district funds, fines levied under bye-laws framed by District Boards under section 139 of Act III (B. C.) of 1885, but that in His Honour's opinion fines imposed under sections 24 and 27 of the Cattle Trespass Act should, as hitherto, be credited to Government.

*Ben., Mun. (L. S.-G.), No. 1206 of 2-3-1898, to Commrs., Orissa.*

I am to say that fines imposed under sections 24, 26 and 27 of the Cattle Trespass Act should be credited to Government, while sums received on account of fines under section 12, and the surplus from fines, charges and sale-proceeds referred to in section 18 should be placed entirely to the credit of the district fund, in accordance with the provisions of clause (c), section 52 of the Bengal Local Self-Government Act. In connection with this subject, I am to invite your attention to Government order No. 307 L. S.-G., dated the 5th February 1892, a copy of which was forwarded to you with Circular No. 4 of the same date.

**Use of fees and fines levied under the Hackney Carriage Act.**

*Ben., Mun., No. 2375 and Cir. No. 397, M. of 7-10-1904, to Commrs.*

The Government circulated the following opinion of the Legal Remembrancer, dated the 19th September 1904, regarding the use of the fees and fines levied under the Hackney Carriage Act, II (B.C.) of

1891\* with the request that the instructions contained therein should be followed by municipalities:—

*Opinion.*

In my opinion no order by Government under section 67 of the Bengal Municipal Act is necessary, and such an order would not be legal. Fees and fines realised under the Hackney Carriage Act should not be credited to the "municipal fund" nor appropriated for the purposes specified in sections 68 and 69 of the Bengal Municipal Act. Under section 60 of the Hackney Carriage Act [II (B.C.) of 1891] all fees and fines must be credited to a Hackney Carriage Fund which should be employed only in carrying out of the purposes of that Act, and not the general purposes of the municipality. The accounts of this fund should be kept separate and distinct in the Municipal Office, if not in the treasury. The municipal Commissioners are the administrators of the Hackney Carriage Act and of the Hackney Carriage Fund, and for this no Government order is necessary. Under section 67 of the Bengal Municipal Act, the Government can only sanction the transfer of such sums as may be legally so transferred. That section does not authorize the contravention of the express provisions of any enactment.

All fees and fines, therefore, levied under Act II (B.C.) of 1891 should be made over to the municipality for credit, not to the General Municipal Fund, but to the Hackney Carriage Fund.

**Question whether municipalities have power to fine officers and servants in their employ.**

*Ben., Mun., No. 2806M. of 1-8-1927, to Commr., Rajshahi.*

I am directed to refer to your No. 1883M., dated the 23rd June 1927, with enclosures, regarding the fine of one month's pay inflicted by the Municipal Commissioners of Rajshahi on their overseer for neglect of duty. The Chairman asked you to suspend the execution of the resolution under section 63 of the Bengal Municipal Act on the ground that the Municipal Commissioners have no power to fine their employees, and the District Magistrate supported this request.

The Municipal Commissioners have framed no rules under section 351A (f) of the Act, and the Chairman accordingly contends that the Municipal Commissioners have no power to punish by the imposition of a fine. You are, however, of opinion that the Commissioners have inherent power of fining and that the mere fact that they have not framed any rule on the subject does not preclude them from exercising it and you ask for an authoritative ruling on the legal position.

In reply I am to say that Government (Ministry of Local Self-Government) are advised that your view is correct. Section 351 (I) (f) of the Bengal Municipal Act by implication gives the Municipal Commissioners power to fine municipal officers and servants in their employ. Hence, it cannot be contended that the Municipal Commissioners of Rajshahi have exceeded the powers conferred on them

by law. I am, however, to request that the attention of the Municipal Commissioners be called to the following considerations:—

Heading (f) to Model Rules 56-58 issued with circular No. 5T.—M., dated the 8th September 1894, does not mention fining and Union Boards are not empowered to impose a fine of more than a quarter of a month's pay on an officer or servant of the Board. It may thus be inferred that if the Municipal Commissioners of Rajshahi had drafted rules providing for the imposition of fine on their employees, Government would either have disapproved or would have restricted the scale of fines to some such proportion as obtains in the case of a Union Board.

In this particular instance the fine was an extremely heavy one, and the Municipal Commissioners may be asked to reconsider their resolution.

**Fines realised to be credited to union fund and necessity of furnishing court-fee on petition of complaints by Presidents of union boards.**

*Beng. L.S.-G., Order No. 4918 L.S.-G. of 8-6-1936, to Commr., Presidency.*

I am directed to refer to your memorandum No. 2206 L.S.-G., dated the 14th October 1935, regarding the points raised by the President of the Dignagar union board in the district of Nadia, viz.:

- (1) whether the fines realised for infringement of a by-law framed under section 101A of the Village Self-Government Act, 1919, should be credited to the union fund; and
- (2) whether court-fees will be required on petitions of complaint by Presidents of union boards.

2. In reply, I am to explain that in view of the provisions of section 46 of the Act, the fines realised for a breach of any by-law is to be credited to the union fund. As the President of a union board is a public servant within the meaning of section 21 (tenth) of the Indian Penal Code, a petition of complaint made by him is exempt from the payment of court-fee under clause (xxvii) of section 19 of the Court Fees Act.

The union boards in your division may be informed accordingly.

*Memo. Nos. 4919-4922 L.S.-G., dated the 8th June 1936.*

Copy forwarded to all Commissioners of Divisions (except Presidency) for information and communication to the union boards within their respective divisions.



**Instructions regarding levy of fines on impounded cattle.**

*Ben. Mun., Cir. Nos. 4994-4998M. of 4-9-1927, to Commrs.*

I am directed to invite your attention to this department endorsement Nos. 716-20M., dated the 2nd March 1928, forwarding copy [copies] of notification(s) No. 714M. [and No. 715M.] of the same date, prescribing scales of fines leviable on impounded cattle and to say that the scales prescribed therein are still in force.

It has, however, been brought to the notice of Government that some local bodies have been levying fines on impounded cattle at the rates printed on the back of Bengal Form No. 210B, though the latter is exclusively intended for use by some pounds in the district of the 24-Parganas only under the control of the Magistrate of that district.

I am accordingly to request you to be so good as to impress upon the local bodies in your division that such practice, wherever it exists, should be discontinued at once and the scales prescribed in Government notification, dated the 2nd March 1928, should invariably be adopted.

[ ] For Commissioner, Burdwan Division only.

## Forms.

### **District Boards and Municipalities in Eastern Bengal to make their own arrangements for printing of forms.**

*Ben., Gen. (Mun.), Nos. 2049-54 Mun. of 2-11-1913, to certain Commrs., etc.*

It was laid down in the "Rules for the indent, supply, custody and issue of forms" prescribed with Eastern Bengal and Assam Government circular No. 2M., dated the 8th June 1908, that all forms used in the offices of Local Self-Government authorities shall be printed in and supplied from the Central Jail Press, Dacca. The *printing of forms* in any other press without previous sanction of Government was strictly prohibited.

It has since been decided by Government that the Jail Press at Dacca will be closed after the 31st March 1914, and the machinery transferred to Bihar and Orissa. Other arrangements will consequently have to be made for the *printing of the forms* referred to above, and since it has been declared undesirable that the Jail Press should undertake outside work, the local bodies in the Eastern Bengal Division, like those in the Western Bengal Division, will have to make their own arrangements from the 31st March 1914.

To facilitate the *printing of forms* at private presses by the local bodies in Eastern Bengal so much of the circular No. 2M., dated the 8th

June 1908, as restricts their power regarding the printing of their own forms are hereby withdrawn.

**Supply of forms<sup>\*</sup> prescribed by rules under the Bengal Village Self-Government Act, 1919.**

*Ben. (L.S.-G.), Nos. 4369-4375 M. of 14-8-1922, to Commrs., et.*

With reference to your letter No. 5908 G., dated the 19th December 1921, asking for instructions as to who will supply the forms prescribed by rules made under the Bengal Village Self-Government Act, 1919, I am directed to say that the general principle to be followed in this matter is that those only of the forms which are to be used by circle and other Government officers should be printed at the cost of Government and that those which will be used by Union Boards should be printed at the cost of those Boards. A Union Board may, however, where this is possible, arrange with the District Board for printing the forms required.

2. The question for printing the forms required by Union Benches, Union Courts and circle and other Government officers is still under consideration and a separate communication will be made when the question has been settled.\*

## Grants.

**Principle for distribution of augmentation grants to District Boards.**

*Ben. Mun. Nos. 3496-3500 L.S.-G. of 19-11-1925, to Commrs.*

I am directed to refer to the correspondence resting with your letter (Commissioner of the Burdwan Division, No. 888 L.S.-G., dated the 11th May 1925; Commissioner of the Presidency Division, No. 21 L.S.-G., dated the 27th January 1925; Commissioner of the Dacca Division, No. 2037 E., dated the 29th April 1925; Commissioner of the Chittagong Division, No. 5571 G., dated the 29th November 1924; and Commissioner of the Rajshahi Division, No. 3069 M., dated the 5th December 1924), submitting your views together with those of the District Officers and local bodies in your division on the question whether the existing principle of distributing the augmentation grant to District Boards should be revised. The views expressed are very divergent and the arguments for a change in the present system or for its maintenance are stated with considerable force and lucidity in many of the replies which have been received. The views of the District Boards appear to be influenced in some cases by the apprehension of obtaining smaller grants, and in others by the hope of receiving a larger proportion of the total augmentation grant. The majority of the officers consulted approve the compromise suggested in the last paragraph of my Circular Nos. 4576-4580 L.S.-G., dated

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\*No decision on this question had been arrived at while this volume was going through the press.

the 15th November 1924, that a moiety of the total grant available should be distributed on the present rateable basis and that the other half should be allotted according to the needs of districts in each division, the Divisional Commissioners being given discretion to distribute the amount among the districts. After careful consideration the Governor in Council has decided to give effect to this suggestion with effect from the next financial year.

2. The question at once arises as to what principle should be followed in judging the respective needs of the different districts. The standards of area and population naturally suggest themselves but the density of population is found to vary greatly in different parts of the province. The basis of population or of area taken alone is not therefore a fair guide in determining the comparative needs of different districts, but these two standards taken together appear to afford suitable guidance in the distribution of the grant. A statement is enclosed showing the percentage at which the claims of each district may be assessed in consideration of both its area and population. It also shows what the distribution of the grant for each district would have been for the year 1925-26 if effect had been given to the principle set out above. It is hoped that this statement will serve as a rough guide for making the distribution in future years.

3. Government are fully aware that it is extremely difficult to assess the comparative needs of different districts, and that a too rigid application of the area-population basis may yield unequal results, but on the whole they consider that this basis furnishes a fairly equitable guide. Such factors as the number of Union Boards in a district, the length of metalled roads to be maintained, the number of schools, dispensaries, etc., may also be taken into account in making the final allotment.

According to the statement enclosed the Hooghly District Board would get Rs. 20,000 against its present grant of over Rs. 25,000. This District Board is by no means well-to-do and has had to apply for a loan recently in order to repair the damages caused to its roads by flood. Again, the District Boards of Howrah and Birbhum would practically gain nothing on the principle now adopted. These two District Boards have a large number of Union Boards under them and Government desire that this fact should be taken into consideration in fixing their allotments. I am further to add that it would be unwise to reduce the present grant of the Mymensingh District Board having regard to the facts set out in Mr. Twynam's able statement of the case (his letter No. 7, dated the 2nd January 1925).

4. The existing practice of calculating the augmentation grant for any year on the figures for the net road cess receipts for the penultimate year will continue, and in order to enable you to calculate the 50 per cent. of the grant on the rateable basis, you will be furnished each year by the first week of October with a statement showing the net road cess receipts for the preceding year and the amount of grant available for each division, so that you will be able to communicate to District Boards (as well as to Government) the total allotment finally made by you to each district by the 15th November, as enjoined by Mr. O'Malley's Circular No. 733-37T.—L.S.-G., dated the 9th October 1918. The allotments made by you to the several District Boards in your division should in no circumstances exceed the divisional allotment as the total grant for the province must be confined to 25 per cent. of the road cess receipts.

On receipt of your proposals, the Accountant-General, Bengal, will be asked to place the grants at the disposal of the District Boards as soon as the next financial year begins, provided the total grant for the province is voted by the Legislative Council.

5. I am to request that the District Boards in your division may be informed accordingly.

**Statement showing the mean proportion of area and population at each district in Bengal and the distribution of the augmentation grant for 1925-26 according to the system sanctioned in November 1925.**

Name of District Board	Area in square miles including municipalities	Proportion on area	Population (excluding municipalities)	Proportion on population	Proportion of revenue of columns 3 and 5	Road rates in rupees for 1925-26	Grant for 1925-26 according to all per cent of road area receipts	Distribution of the grant for 1925-26 according to the new system		
								12 per cent of road area	According to mean pop. per sq. mile	Total
1	2	3	4	5	6	7	8	9	10	11
<b>BURDWAN DIVISION</b>						Rs.	Rs.	Rs.	Rs.	Rs.
Burdwan	2,669	3.9	1,343,185	3.1	3.5	3,09,712	77,428	38,714	18,517	54,231
Birbhum	1,750	2.5	838,605	1.9	2.2	76,071	19,018	9,509	9,754	19,263
Bankura	2,631	3.8	984,487	2.2	3.0	30,419	7,605	3,802	13,300	17,102
Midnapore	5,026	7.3	2,595,071	6.0	6.65	3,08,008	77,002	38,501	29,482	67,983
Hooghly	1,159	1.7	900,802	2.1	1.9	93,262	23,315	11,658	8,423	20,081
Howrah	518	.7	578,893	1.8	1.25	48,631	11,648	5,829	5,542	11,371
Total	13,733	19.9	7,421,993	17.1	18.5	8,64,103	2,16,026	1,08,013	82,018	1,90,031
<b>PRESIDENCY DIVISION</b>										
24 Parganas	4,784	6.9	1,980,775	4.6	5.75	2,53,115	63,279	31,640	25,492	57,132
Nadia	2,754	4.0	1,390,704	3.2	3.5	93,466	23,466	11,733	15,900	27,633
Murshidabad	2,089	3.0	1,182,983	2.7	2.85	82,906	20,649	10,324	12,635	22,959
Jessore	2,891	4.2	1,700,924	3.9	4.05	1,13,255	28,314	14,157	17,955	32,112
Khurda	2,406	3.5	1,413,513	3.3	3.4	1,19,201	29,800	14,900	15,075	29,975
Total	14,924	21.6	7,670,899	17.7	19.65	6,67,933	1,65,508	82,754	87,117	1,69,871
<b>DACCA DIVISION</b>										
Dacca	2,712	4.0	2,975,915	6.8	5.4	1,55,817	38,954	19,477	23,941	43,418
Mymensingh	6,188	9.0	4,719,669	10.8	9.9	3,55,813	88,553	44,476	43,801	88,277
Faridpur	2,358	3.4	2,290,250	5.1	4.25	1,17,754	29,438	14,719	18,842	33,561
Bakarganj	3,463	5.0	2,560,449	5.9	5.45	2,26,333	56,583	28,292	24,162	52,454
Total	14,721	21.4	12,456,683	28.6	25.0	8,55,717	2,13,528	1,06,964	1,10,836	2,17,800
<b>CUTTACK DIVISION</b>										
Cuttack	2,447	3.6	1,570,700	3.6	3.6	1,04,444	26,161	13,080	15,960	29,040
Tippera	2,547	3.7	2,678,627	6.2	4.95	1,16,552	29,538	14,819	21,946	36,765
Hoakhall	1,513	2.2	1,445,071	3.4	2.8	1,11,396	27,846	13,923	12,414	26,337
Total	6,507	9.5	5,714,458	13.2	10.35	3,30,396	83,545	41,822	50,320	92,142

Name of District Board.	Area in square miles excluding municipalities.	Proportion on area.	Population (excluding municipalities).	Proportion on population.	Proportion (mean of columns 3 and 5).	Road cess receipts for 1923-24.	Grant for 1925-26 according to 25 per cent. of road cess receipts.	Distribution of the grant for 1925-26 according to the new system.		
								12½ per cent. of road cess.	According to mean proportion.	Total.
1	2	3	4	5	6	7	8	9	10	11
						Rs.	Rs.	Rs.	Rs.	Rs.
<b>RAJSHAHI DIVISION.</b>										
Rajshahi ..	2,611	3.8	1,457,037	3.4	3.6	1,61,351	40,338	20,169	15,960	36,129
Dinajpur ..	3,940	5.7	1,687,328	3.9	4.8	1,47,180	36,795	18,398	21,280	39,678
Jalpaiguri ..	2,927	4.3	921,749	2.1	3.2	1,15,433	28,858	14,429	14,187	28,616
Rangpur ..	3,484	5.0	2,482,242	5.7	5.35	1,74,942	43,735	21,867	23,719	45,586
Hogra ..	1,367	2.0	1,032,300	2.4	2.2	63,243	15,811	7,905	9,754	17,659
Pabna ..	1,664	2.4	1,344,633	3.1	2.75	90,171	22,543	11,272	12,192	23,464
Malda ..	1,827	2.7	955,830	2.2	2.45	55,048	13,762	6,881	10,862	17,744
Darjeeling ..	1,157	1.7	254,045	.6	1.15	26,945	6,736	3,368	5,098	8,465
<b>Total ..</b>	<b>18,977</b>	<b>27.6</b>	<b>10,135,204</b>	<b>23.4</b>	<b>25.5</b>	<b>8,34,313</b>	<b>2,08,578</b>	<b>1,04,289</b>	<b>1,13,052</b>	<b>2,17,341</b>
<b>GRAND TOTAL ..</b>	<b>68,853</b>	<b>100.0</b>	<b>43,392,337</b>	<b>100.0</b>	<b>100.00</b>	<b>85,46,750</b>	<b>8,86,685</b>	<b>4,43,342</b>	<b>4,43,343</b>	<b>8,86,685</b>

### Allocation of grants to Union Boards.

*Beng. Mun. L.S.-G., Nos. 322-26T.—L.S.-G. of 20-6-1922.*

I am directed to invite your attention to Mr. O'Malley's letter No. 90—94 L.S.-G., dated the 23rd May 1921, in which the advisability of District Boards adopting some principle for the allocation of grants to Union Boards was raised.

It has been suggested by Mr. J. N. Gupta, M.B.E., at the Burdwan Divisional Conference of 1920 that grants to Union Boards should bear some proportion to the assessment imposed by them, and the views of District Boards and local officers were invited on this proposal.

2. There is a general consensus of opinion in favour of adopting some principle of this kind provided that it is applied with some amount of elasticity and not rigidly by rule of thumb. It is pointed out that the income enjoyed by Union Boards from pounds and ferries, the capacity of the Union Board area to bear taxation, the particular needs of a local area and special circumstances, such as, for instance, failure of crops, are matters which require to be taken into account.

It is moreover suggested that at the outset where Union Boards have been newly formed, it is desirable for District Boards to make some allotments even where the villagers show no inclination to submit to taxation under section 37(b) of the Village Self-Government Act.

It is suggested by the Dacca District Board that some fixed and uniform grant should be made to all Union Boards in addition to a special augmentation grant based on the amount of union assessment.

It is also pointed out that if Mr. Gupta's idea were accepted, the allotment from the District Board should be based on the amount of taxes collected in the preceding year by the Union Boards and not on the assessment shown in their budget for the year in which the grant is made, since a premium would then be placed on efficiency in collections, which normally tend to be bad.

3. I am to state that after a careful consideration of the opinions which have been received, Government have decided that District Boards should be requested to observe, so far as possible, the following principles in allocating grants to Union Boards:—

- (1) It will be desirable in the first instance, for District Boards in preparing their budgets, to decide what sum can be earmarked for the needs of Union Boards. In this connection I am to invite a reference to Mr. O'Malley's circular Nos. 3267—70 L.S.G., dated the 20th July 1921,\* in which Government requested that a substantial portion of the augmentation grant should be earmarked for this purpose.
- (2) The free surplus income secured to Union Boards by the transfer of management of pounds and ferries should then be taken into consideration. Where these institutions yield a surplus income, it is reasonable to regard their transfer to the village authority as something in the nature of a grant, which should be borne in mind in calculating the cash allotment to be made from District Board funds. Since, however, it is desirable to encourage Union Boards by sound management to increase the revenue derived from pounds and ferries, Government are of opinion that it would be reasonable in making the calculation for cash allotments, merely to deduct a ratio, *e.g.*, one-half or even one quarter of the net profit yielded by these institutions, from the grant which the Union Board would ordinarily obtain on the principles set out below.
- (3) The amount of taxes collected in the preceding year under section 37(b) of the Village Self-Government Act by any Union Board should then be ascertained and after making any deduction which may be proper in accordance with principle (2) set out above, a *pro rata* distribution of the amount available for distribution should be made so far as possible on the basis of the collections.
- (4) A readjustment of the distribution made on the above basis will then be necessary, regard being had—
  - (a) to the rateable value of different Union Boards, since a semi-urban board should yield a larger amount in taxes than a more sparsely populated rural area; and
  - (b) to the special needs or circumstances of any union, *e.g.*, failure of crops, meritorious work, deficient water-supply, or evidence of a progressive policy such as readiness to organize village medical relief or anti-malarial measures.

4. Government recognize that in certain cases, it may be impossible to give effect to the above principles owing to the reluctance of Union Boards to tax themselves at all. In view of the set-back which the

\*Not printed. The rules appear in the Union Board Manual, 1925.

village self-government movement has recently received in certain district Government would deprecate the adoption of a too uncompromising attitude by the District Boards in the matter of grants to these bodies, the Minister recognises that it will frequently be necessary for District Boards to foster this movement by making grants to Union Boards even where they decline to utilize the provisions of section 37(b) of the Act. But even where this necessity exists, there may nevertheless be Union Boards which can be treated more generously on the above principle, with the result that other Boards in the district may gradually be led to emulate their example.

*Ben. Mun. (L.S.G.), Nos. 1698-1702 L.S.G. of 29-5-1923.*

I am directed to enclose a copy of notification No. 1697 L.S.41., dated the 29th May 1923,\* published in the *Calcutta Gazette* of the 6th June 1923, proposing to make certain amendments in the Union Board Account Rules, and to request that it may be published as widely as possible in the district of your division, specially in Union Board areas, and a report submitted by the prescribed date stating whether any objection has been raised to the proposal. The opinions of the District Boards and the District Magistrates as well as your own should also be submitted with the report..

2. The main object of the proposed amendment is to simplify the procedure relating to the preparation of budgets and audit of accounts. Under the present system Union Boards labour under a real difficulty inasmuch as they have to show on the receipt side of their budget estimates "grants to be received from the District Board," and on the expenditure side their whole estimated expenditure (including the spending of these grants), although it is not known to them at the time what grant the District Board will make. On the one hand, as the District Magistrate is responsible for seeing that the *chaukidars* and *dafadars* are paid regularly, he must have before him not later than April a budget which will show the expenditure to be incurred on their pay and equipment and sufficient taxation to cover it. On the other hand, the District Board is not in a position to decide what grant a Union Board will receive during a particular year until it has seen what the Union Board did during the past year, nor ought the Union Board to be required to declare finally how much money, it will spend on works until it knows what grant the District Board is prepared to make. It is, therefore, necessary to lay down a procedure which will stop this wasteful labour of budgeting for the expenditure of money, the receipt of which is absolutely uncertain, and, at the same time, make due provision for efficient and systematic performance of the functions of Union Boards, the essentials for the purpose are:—

- (i) a fixed programme of dates and a recognised system understood by Union Boards, and
- (ii) grants based on results of a past year and not on promises for a coming year.

3. The District Board grant to a Union Board may consist of three parts:—

- (a) contribution under section 33 of the Village Self-Government Act on account of the transfer of certain duties from District Boards to the Union Board;

- (b) such grant-in-aid from the district fund as the District Board may make under the first part of section 45, which should be equal for every Union Board in the district and should be paid, irrespective of its work of the imposition of taxation, under section 37(b); and
- (c) a special contribution either under the first paragraph of section 45, as a recognition of the Union Board's efficient administration, or under the proviso to that section.

The amount of contribution under (a) may be fixed once for all when the works are transferred and should be based on the average of past actual expenditure prior to the transfer. Contributions under head (b) may also be fixed without much difficulty for a term of years. There is, therefore, no difficulty in letting the Union Board know before it takes up the preparation of its budget what these contributions will amount to.

It is in regard to the contribution under the head (c) that the real difficulty is felt. This grant should be based not on the amount of terms provided in the budget, which the Union Board proposes to levy under section 37 (b) in the coming year, but on that collected in the past year, and should also be fixed on a general consideration of its past year's work as disclosed in the audit report of the Circle Officer. It will necessarily be a varying grant. I am at this point to remark that the Circle Officer's audit should not be a mere meticulous scrutiny of registers and accounts, but that his reports on the working of Union Board should be written after he has seen the work done by a Board and heard the complaints, if any, of the rate-payers. It will be clear from what has been said above that the exact amount of a grant under head (c) cannot be fixed until the audit report of the Circle Officer has been submitted to the District Board—in other words, until the District Board has formed an opinion on the efficiency of the last year's administration of the Union Board.

Government (Ministry of Local Self-Government) are of opinion that this is the real method by which the District Board should exercise its control, and it is by using this control in a manner which will reward self-help that the District Board can best assist village self-government. Government do not think that this object can be achieved, if the District Board attempts to exercise too strict a check over the details of a Union Board's expenditure in such matters as establishment and contingencies. If the District Board think that the charges proposed are excessive, they should say so and warn the Union Board concerned that, if their advice is not taken, the fact will be taken into consideration to the disadvantage of the Union Board when the next allotment of grants is made. But it is important that the Union Boards should not be constantly called on to furnish elaborate explanations of small items in respect of which the office of the District Board may detect discrepancies. When the Union Board has been given a grant, it should have a fairly free hand in expending the grant and the District Board must rely on the audit of the Circle Officers to see that the funds are properly utilized.

4. The Union Board should, therefore, prepare its budget *excluding* this grant under head (c) and the expenditure to be met from it. The only objection that may be raised to the proposed procedure is that half the year will have passed before the Union Board can decide how



to spend the grant which the District Board has decided to make, after considering the audit report of the Circle Officer. But Government (Ministry of Local Self-Government) do not think that this objection has any practical importance, since the greater part of the work of Union Board is usually done between November and March of every year. It will, therefore, cause no inconvenience, if the preparation of a supplementary budget dealing with grants under head (c) and their expenditure is deferred until September.

5.4 To give effect to the above considerations Government propose the following annual programme for the observance of District Boards, Union Boards and Circle Officers:—

(1) District Boards should determine the total amount available in the next year for grants to Union Boards and communicate to the latter the *fixed grants* which each will get under section 33 and the first part of section 45 not later than the 1st January immediately preceding the year to which the Union Board budget relates.

(2) Union Boards should submit their budget estimates of receipts and expenditure, except of receipts and expenditure dependent on the varying grant under head (c) not later than the 15th January.

(3) The Circle Officer should complete his audit of the accounts of, and inspection of the work done by, Union Boards in his circle for the previous Bengali year and submit his report to the District Board not later than the 30th June.

(4) District Boards should communicate to Union Boards the amounts of the *varying grants* before the 15th August.

(5) Union Boards, which are to receive such contributions, should intimate to the District Board not later than the 30th September—in the form of a supplementary budget—the manner in which they propose to spend it.

### **Appropriation of unspent balances of Government grants in subsequent years.**

*Ben., Mun., Cir. Nos. 100-104 T.—M. of 12-5-1933. to all Commissioners of Divisions.*

I am directed to invite a reference to paragraph 25 of the report on the working of the Local Audit Department for the year 1929-30 (copy enclosed) in which it was brought to the notice of Government that certain municipalities, instead of refunding the Government grants made for expenditure in a particular year, but not utilised fully during that year, appropriated them in subsequent years without specific sanction.

I am to observe that this practice is against the spirit of rule 203 of the Municipal Account Rules. It should therefore be impressed upon the municipal authorities in your Division that grants which are intended to be expended in a particular year should not without the sanction of Government be appropriated in subsequent years. Unless such sanction has been received the unspent balances of such grants should be refunded soon after the accounts of the year are closed.

*Memo. No. 105 T.—M., dated the 12th May 1934.*

Copy forwarded to the Advocate-General, Bengal, for information. Steps are being taken to amend rule 203 of the Model Municipal Account Rules. This disposes of paragraph 25 of the report on the working of the Local Audit Department for the year 1929-30.

This order has concurrence of the Finance Department

*Memo. No. 106 T.—M., dated the 12th May 1934.*

Copy, with a copy of the above memorandum, forwarded to the Finance Department for information.

### **Extract from Local Audit Report, 1929-30.**

#### **D.—PARTIAL UTILISATION OF GOVERNMENT GRANTS.**

25. Several municipalities utilised only a part of the Government grants but did not refund the unexpended balance. This irregularity was noticed in certain municipalities. It is seldom realized that grants which are intended to be expended in a particular year should not be appropriated in subsequent years without specific sanction.

#### **Distribution of augmentation grant.**

*Ben., L.S.-G., order No. 799 T.—L.S.-G. of 3-10-1934, to Commr., Chittagong.*

With reference to your letter No. 3530 G., dated the 23rd July 1934, regarding a proposal of the Chittagong District Board to utilise the whole of the augmentation grant for the normal recurring expenditure of the district board instead of distributing a "substantial portion" to union boards as provided in Government order contained in circular Nos. 3267-3270 L.S.-G., dated the 20th July 1921, I am directed to say that Government agree with you that there is no reason to modify the orders of Government on the subject referred to above.

As regards the Additional District Magistrate's suggestion that 50 per cent. of the augmentation grant received by a district board should be distributed among union boards under it, I am to say that the orders of Government gives the district boards a fairly wide discretion as to the proportion of the augmentation grants to be distributed among union boards. The district boards have large demand on their resources and at this time of financial stringency Government cannot agree that 50 per cent. should be definitely fixed as the contributions to union boards from augmentation grant. At the same time Government trust that district boards will realise that they are expected to render adequate financial assistance to union boards by making substantial contributions from the augmentation grant.

*Memo. Nos. 963-66 T.—L.S.-G. of the 15th October 1934.*

Copy forwarded to all other Commissioners of Divisions for information and guidance

### **Grant by local bodies to public libraries.**

*Ben., Mun., Cir. Nos. 768-772 M. of 29-1-1935, to Commrs.*

I am directed to invite your attention to the provisions of section 63(b) of the Local Self-Government Act, 1885, section 108(I)(xxv) of the Bengal Municipal Act, 1932, and section 32 of the Village Self-Government Act, 1919, as amended by section 3 (b) of the Village Self-Government Amendment Act, 1932, authorising the respective local bodies to make grants to public libraries within their jurisdiction.

2. As a library properly run is of great use for the education of the local people, I am to request that you will be so good as to draw the attention of the district, municipal and union boards in your division to the provisions of the above sections of the respective Acts, and to impress upon them the necessity of making suitable grants to public libraries within their respective areas, as funds permit.

### **Question of the reduction of the augmentation grants to district boards.**

*Ben., L.S.-G., Cir. Nos. 2167-2171 L.S.-G. of 22-3-1935, to Commrs.*

I am directed to refer to paragraph 5 of this department circular Nos. 5263-5267 L.S.-G., dated the 17th November 1934, regarding distribution of augmentation grants to district boards and to say that in consideration of the present financial condition of Government it has been decided that for the present the amount of augmentation grant to be given to district boards in the province as well as the amount to be given to each district board be fixed at the figures for the year 1934-35, without any reference to the road cess income of the district boards. The arrangement will be in force for two years only, viz., 1935-36 and 1936-37, after which the question will be re-examined in the light of the financial position of Government.

I am, therefore, to request you to be so good as to inform the district boards in your division accordingly. Further orders regarding distribution of grant will be communicated in due course.

### **Hides.**

#### **Faulty flaying and branding of hides.**

*Ben., Mun., Cir. No. 31M. of 26-11-1917, to Commrs. of Divns.*

I am directed to forward herewith a copy of a letter No. M-1285/174, dated the 22nd September 1917, and its enclosures, from the Secretary to the Indian Munitions Board, regarding the faulty flaying of hides and the branding of cattle, and to request that copies of it may be communicated to the municipalities in your division for such action as may be considered necessary to effect an improvement in respect of the practices to which attention is drawn by the Board.

*No. H.—1285-174, dated the 22nd September 1917, from the Secretary to the Indian Munitions Board, to the Chief Secretary to the Government of Bengal.*

I am directed to forward, for the information of His Excellency the Governor in Council, and for such action as His Excellency may consider advisable, copy of a note on the faulty flaying and on the branding of hides, submitted by Mr. J. Wright Henderson, War Office Representative in India, in connection with leather supplies for the Home Government.

2. The matters to which Mr. Henderson draws attention are economically of considerable importance and the present practices in this regard undoubtedly result in a large financial loss to the country, as well as, at the present time, diminishing seriously the amount of leather suitable for war requirements. The Indian Munitions Board considers that a good deal of improvement in the flaying of cattle might be effected if district, municipal and cantonment authorities were urged to take this matter up and to give it their personal attention. In particular, the loss due to insufficient time for slaughtering being allowed by the municipal or other responsible authorities might be avoided by revising the rules on this subject at the various slaughter-houses. The results already obtained by the Board at the Bandra Slaughter-house at Bombay are valuable as showing what can be done by effective supervision.

3. The question of branding of cattle is more difficult, and, in addition to the reasons for the practice mentioned by Mr. Henderson, there is also no doubt the desire of cattle-owners to prevent theft of their cattle for the value of the hides by rendering the hides valueless. But here also the Indian Munitions Board considers a good deal could be done if local Government officers were to use their influence to dissuade cattle-owners so far as possible from this practice.

4. *Press communiqué* (copy enclosed), as suggested by Mr. Henderson, is being issued on these subjects.

*Copy of note by Mr. J. Wright Henderson, War Office Representative in India, dated the 31st August 1917.*

#### FAULTY FLAYING AND BRANDING OF HIDES.

The attention of the Munitions Board is invited to the fact that a very considerable quantity of raw hides is at present lost to the Army Department through careless flaying and branding with hot iron.

*Flaying.*—Generally speaking, the best hides for purpose of leather-making come from the various cities and cantonments where cattle are slaughtered for food, but only a small proportion of these fine hides can be turned to good account because the butcher or meat contractor exercises no supervision over the removal of the hides from the carcase, and as the skinner is usually paid at so much per head his one idea is to get through the work as quickly as possible with the result that the hides in most cases are badly gashed and cut on the flesh side.

2. The destruction of so much otherwise excellent raw material represents a great loss to India financially, and is particularly regrettable in view of the urgent need of all suitable leather for war purposes.

3. From enquiries made, it is evident that the main reasons for this state of affairs are:—

- (a) insufficient time for slaughtering is allowed by the Municipal or other responsible authority,
- (b) ignorance on the part of the butcher. He has not been told that a well-flayed hide is at present worth more by 2 annas per pound raw or 4 annas per pound tanned, than a badly-flayed one and no incentive has been offered to the actual skinner to produce well-flayed hides.

4. That a great improvement can be effected by action on proper lines has been proved in the Bandra Slaughter-house (Bombay Municipality), where about 200 cattle (cows and oxen) are slaughtered daily. Eight months ago, 65 per cent. of these had to be rejected from Army selection because of butcher cuts; representations were therefore made to the Market Superintendent who granted the workmen an extension of time for slaughtering, and the Assistant Controller for Hides (who buys the hides for the Government Tannery) was authorized to pay the skimmers a bonus of two annas for every well-flayed hide: the result is that less than 5 per cent. have now to be rejected for faulty flaying.

5. *Branding of cattle.*—The following note on this subject was presented some time ago, but no improvement can be seen in the hides from the districts chiefly concerned:—

#### *Branding of Hides.*

"The branding of cattle by owners is a subject which might be advantageously considered by Government.

At present a large proportion of the leather produced in India is unsuitable for Army purposes, and to a great extent for civil purposes, because of the brands on the hides.

In certain districts branding is done to a much greater extent than in others, for instance the proportion of branded hides in Bombay is very small, whereas in the districts around Beswada, Coconada and the East Coast, also in the south round Dindigul and Coimbatore, probably 40 to 50 per cent. of the hides which come on to the market are heavily branded.

Unfortunately, the brand is not always confined to a small part of the hide in the districts where the largest proportion of the hides are branded, the brands take the form of double semi-circular lines covering the butt part of the hide and often extending to the shoulder.

It is said that branding is resorted to in certain districts in order to render the cattle immune from disease, whilst in other areas, it is said to be a religious custom.

The fact remains that the practice results in reducing the value of the tanned hide—the average reduction at present may safely be taken at one to three rupees per hide—and otherwise good leather is made unavailable for the needs of the Empire.

If branding is absolutely essential, it might be represented to the owners that a small brand in the neck or shoulder would serve the purpose and at the same time not depreciate the value of the hide to any great extent."

6. It is suggested that both matters might be brought to the notice of all concerned through Collectors of districts, and a *Press communiqué* on the subject might also have good results.

#### PRESS COMMUNIQUE.

The Indian Munitions Board has recently been devoting attention to the loss of much valuable leather in India which is caused by the faulty flaying of hides and by the branding of cattle.

The best hides for purposes of leather-making come from the various cities and cantonments where cattle are slaughtered for food, but only a small proportion of these fine hides can be turned to good account because the butcher or meat contractor exercises no supervision over the removal of the hide, with the result that the hides in most cases are badly gashed and cut on the flesh side.

The destruction of so much otherwise excellent raw material represents a great loss to India financially and is particularly regrettable in view of the urgent need of all suitable leather for war purposes. The value of the hide trade may be judged from the fact that during the last financial year the value of hides exported in the raw state was approximately  $7\frac{1}{2}$  crores and the value of tanned hides exported,  $4\frac{1}{2}$  crores, a total of 12 crores.

From enquiries made, it is evident that the main reason for the faulty flaying of hides in India are:—

- (a) that insufficient time for slaughtering is allowed by municipal and other controlling authorities;
- (b) that the butchers are ignorant of the fact that a well-flayed hide is at present worth more by 2 annas per pound raw, or 4 annas per pound tanned, than a badly flayed one; and
- (c) that no incentive has been offered to the actual skinner to produce well-flayed hides.

That a great improvement can be effected by action on proper lines has been proved in the Bandra Slaughter-house (Bombay Municipality), where about 200 cattle (cows and oxen) are slaughtered daily. Eight months ago, 65 per cent. of these had to be rejected from Army selection because of butcher cuts; representations were therefore made to the Market Superintendent who granted the workmen an extension of time for slaughtering, and the Assistant Controller for Hides (who buys the hides for the Government Tannery) was authorized to pay the skinners a bonus of two annas for every well-flayed hide: the result is that less than 5 per cent. have now to be rejected for faulty flaying.

With regard to the branding of cattle, a large proportion of the leather produced in India is unsuitable for Army purposes—and to a great extent for civil purposes—because of the brands on the hides. These brands in many cases take the form of double semi-circular lines covering the butt part of the hide and often extending to the

shoulder. The prevalence of the practice of branding cattle is much greater in some parts of India than in others and the reasons for the practice vary, but the fact remains that it results at present in a reduction of from one to three rupees in the value of the hide. In some districts as many as 40 to 50 per cent. of the hides are spoiled by branding.

A small brand in the neck or shoulder would probably serve the purpose and at the same time would not depreciate the value of the hide to any great extent.

The Indian Munitions Board is bringing these matters to the notice of the local Governments in the hope that the influence of the district officers and local authorities may effect an improvement in the present practice.

## Income and Expenditure.

### **Forms for showing income and expenditure of District and Local Boards.**

*Ben., Mun. (L.S.-G.), Cir. No. 36 of 18-7-1911, to Commsr.*

In supersession of all previous orders on the subject I am directed to forward for information and guidance, the accompanying copy of a resolution of the Government of India, Educational Department, Nos. 4-18, dated the 29th June 1911, prescribing revised forms II and III, showing the annual income and expenditure of District Boards for inclusion in the annual report, and to request that the account of all District Boards in your division may in future be submitted in the revised forms (not printed).

In the Home Department Resolution Nos. 14-26, dated the 29th January 1907, certain standard forms were prescribed for exhibiting the annual income and expenditure of municipalities and local boards. In the case of the latter contributions payable from or to Imperial or provincial funds are shown in lump in column 67 of statement II, and column 85 of statement III.

2. The Comptroller and Auditor-General has represented that, under the present arrangement, the figures do not agree with the corresponding totals in the accounts of District Boards which are published in the Finance and Revenue Accounts, as contributions made from imperial or provincial funds to any local fund or *vice versa* are there charged as expenditure or shown as receipts under the head which is most appropriate to the nature of the contribution, in accordance with the principles laid down in paragraph 8 of the Finance Department resolution No. 6902 A., dated the 19th November 1907. The Governor-General in Council considers that it is desirable to remove the discrepancies between the two returns, and directs that the following alterations should be made in the existing District Board forms. A column "Contributions" should be opened under each major head of account in forms Nos. II and III under which such figures are likely to appear, a distinction being made between Government contributions and other contributions by the addition of two separate sub-heads to show "Contributions from or to Government" and "other contributions". [A further analysis of

the figures may be effected by the addition of an explanatory footnote or an annexure to the forms.]

3. Opportunity has also been taken to introduce certain minor additions and alterations requiring no detailed explanation in these forms, and His Excellency in Council now directs that the revised forms forwarded herewith shall be adopted for reports commencing with the year 1910-11.

### **Forms of showing income and expenditure of municipalities.**

*Benc. Mun. Cir. No. 29M. of 28-11-1916.*

In continuation of Government order Nos. 500-504M., dated the 11th February 1916, I am directed to forward copies of the letters from the Government of India, Department of Education, noted below, sanctioning the abolition of the rule in footnote No. (ii) to form III prescribed for the exhibition of the annual expenditure of municipalities. I am to request that the municipalities in your division may be instructed to follow the procedure laid down in the order of the Government of India, dated the 19th September 1916, in their reports commencing with the year 1916-17:—

*No. 146, dated the 19th September 1916, from the Secretary to the Government of India, Department of Education, to the Secretary to the Government of the United Provinces, Municipal Department.*

In reply to your letter No. 1994, dated the 10th June 1916, I am directed to say that for the reasons given therein, the Government of India agree to the abolition of the rule in footnote No. (ii) to form III prescribed for the exhibition of the annual expenditure of municipalities requiring that if the public works establishment be employed partly upon works connected with any of the other heads, the share of the charges debitable to those heads should be shown under those and not under item 31, viz., "Public Works Establishment". They also accept the proposal that the cost of the whole of the engineering establishment not entertained exclusively for a particular department or work should be shown under item 31 referred to above.

2. I am to request that, if there is no objection, the above procedure may be followed in reports commencing with the year 1915-16.

*No. 1994, dated the 10th June 1916, from the Secretary to the Government of the United Provinces, Municipal Department, to the Secretary to the Government of India, Department of Education (Municipalities).*

In paragraph 6 of Mr. Hose's letter No. 2889, dated the 20th September 1909, it was stated that Sir John Hewett agreed with the view of the Royal Commission on Decentralization that the accounts of municipal boards could be materially simplified and that action to effect this simplification had only been deferred pending a settlement of the general question of octroi taxation. This matter was again



referred to in paragraph 9(12) of the despatch of the Governor-General in Council to the Secretary of State, a copy of which was forwarded with your letter No. 190—200, dated the 1st November 1913.

2. Action in this direction was further delayed pending the passing of the new United Provinces Municipalities Act, which introduces radical changes in the procedure for the work of boards. As soon as the Bill was passed into law, steps were taken to simplify the accounts procedure and considerable progress has already been made. A difficulty has, however, been experienced in connection with the forms prescribed by the Government of India for exhibiting the expenditure of boards. In footnote No. (ii) to form III, which was forwarded with resolution No. 14—26 of the Government of India in the Home Department (Municipalities), dated the 29th January 1907, it is stated that "if the public works establishment be employed partly upon works connected with any of the other heads the share of the charges debitable to those heads should be shown under those and not under item 31". Where any portion of the public works establishment is entertained exclusively for that particular department as, for example, for water-works, the cost of such portion of the establishment is shown by boards under the appropriate head, but it is impossible to distribute the cost of the general public works establishment between the different departments according to the work in which they are employed. Even if the work of the staff were confined entirely to works, the cost of which is shown in form III, a proportionate distribution of the cost of the establishment according to the cost of works debited to each head would not be accurate as the amount of time which the engineering establishment has to devote to the supervision or execution of a particular work does not vary in proportion to the cost. But it is to be noted that the general engineering establishment of a board is not employed exclusively on works, the cost of which is shown in form III. On the contrary, a very considerable proportion of the time of the municipal engineering staff is devoted to work carried out by private individuals, as, for example, in connection with building applications and plans for the construction of houses, drains, latrines, etc. Most boards have not attempted to carry out this rule, and any attempt to do so would result in figures which would not correspond with actualities. The Lieutenant-Governor would therefore suggest, for the consideration of the Government of India, that the rule should be abolished as unduly complicating the accounts of municipal boards, and that the cost of the whole of the engineering establishment not entertained exclusively for a particular department or work should be shown under item No. 31.

*No. 158, dated the 19th October 1916, from the Assistant Secretary to the Government of India, Department of Education, to the Secretary to the Government of Bengal, Municipal Department.*

In reply to your letter No. 600 T.—M., dated the 9th October 1916, I am directed to say that the Government of India have no objection to the changes sanctioned in paragraph 1 of this department letter No. 146, dated the 19th September 1916, being adopted in reports on the working of municipalities commencing with the year 1916-17.

## Indebtedness.

### Indebtedness of District Engineers and Local Fund employees.

*Ben., Mun. (L.S.-G.), No. 4277M. and Cir. No. 35M. of 22-8-1899, to Commrs.*

I am directed to acknowledge the receipt of your letter No. 36C., dated 7th August 1899, in which you enquire whether the orders contained in Government order No. 5757J., dated the 25th November 1896, prohibiting under pain of dismissal, all public officers holding civil appointments from taking loans from, or otherwise placing themselves under pecuniary obligations to, persons subject to their official authority or influence, or residing, possessing property or carrying on business within the local limits for which they are appointed, apply to officers paid from local funds, particularly to District Engineers.

2. In reply, I am to say that while the orders referred to relate only to Government officers, the spirit of them applies equally to officers employed under local funds, especially to those employed under District Boards, who administer a part of the general revenue, and whose funds are Incorporated Local Funds. All the District Boards and municipalities in your Division should be invited to adopt the principle of these orders. The question of making express statutory provision against indebtedness will be considered when the Municipal and the Local Self-Government Acts are amended.

## Inspections.

### Inspection of municipalities.

*Ben., Mun., Cir. No. 10 T.—M. of 1-7-1893, to Commrs.*

In paragraph 61 of the Resolution on Municipalities for 1890-91 the Lieutenant-Governor directed that District and Subdivisional Officers should, from time to time, make regular and careful inspections for the municipalities within their respective jurisdictions, and that in the case of municipalities at the headquarters or districts, the Commissioner of the Division might himself occasionally inspect them, forwarding a copy of the inspection note for the perusal of Government. Attention was again drawn to the matter in circular No. 15M. of the 30th March 1892.

2. Sir Antony MacDonnell has now seen some of the inspection reports forwarded to Government in accordance with these orders. They are satisfactory in so far as they show that the inspections made have been useful and thorough; but they are less satisfactory in so far as they indicate that the inspecting officer has often contented himself with merely noting defects. The duties of an inspecting officer do not end with noting defects; it is not enough to detect an irregularity or point out an omission, but definite instructions should be issued, showing how each irregularity should be corrected and each omission repaired. There need be no hesitation on the part of

officers of the experience and standing of Divisional Commissioners and District Magistrates to issue instructions on such ordinary matters as the Municipal Act provides for, while any topic on which they consider that the orders of the Sanitary Board or the Lieutenant-Governor are required, may be specially reserved for reference to those authorities. In this way only will the defects of municipal administration be brought to the notice of the Municipal Commissioners with authority and promptitude, and the Lieutenant-Governor is sanguine that advice promptly and clearly given in this manner will in most cases be cordially accepted by the Commissioners concerned, whose shortcomings are usually attributable to lack of knowledge and experience, and rarely, if at all, to wilful error.

3. I am therefore to desire that in future the inspections of municipalities may be conducted upon the lines laid down above, and that to each inspection memorandum may be appended a statement in the following form:—

*Column 1.*—Recommendations or orders of the inspecting officer suggesting or directing the correction of any abuse or the performance of any necessary act.

*Column 2.*—The action taken by the municipality to carry these recommendations or orders into effect.

*Column 3.*—Orders (if any) of the superior controlling authority (Commissioner, Sanitary Board or Local Government).

As a general rule, and unless a special reference is necessary, no inspection report should be submitted to the controlling authority until information is available to fill in column 2 of this statement, but it is expected that reports will be submitted, when submission to higher authority is necessary, within two months at latest of the date of inspection.

4. I am to add that the number of inspection reports submitted, since the issue of the Circular quoted in the first paragraph, is smaller than the Lieutenant-Governor might reasonably have expected to receive.

*Beng. Mun. Cir. No. 133-37 M. of 17-3-1919, to Commrs.*

In paragraph 61 of the resolution recorded by the Government of Bengal on the working of municipalities during 1890-91, the desirability of regular and careful inspections of municipalities by District and Subdivisional Officers was pointed out and it was observed that the Commissioner of the Division might himself occasionally inspect municipalities at the headquarters of the districts. Attention was drawn to the matter in Circular No. 15-M., dated the 30th March 1892, while in Circular No. 366-70-M., dated the 20th February 1918, instructions were issued as to the manner in which inspections should be conducted.

2. As observed in paragraph 19 of the last Municipal Resolution the Governor in Council has noticed that in certain districts this important duty has been neglected. I am therefore to request that you will be so good as to impress upon all the District Officers in your division the need of thorough and regular inspection of the municipalities in their districts.

*Bew., Mun., No. 605T.M. of 2-11-1893, to San'y. Commrs.*

With reference to your letter No. 232T., dated the 20th October 1893, regarding the inspection of municipalities by the Sanitary Commissioner, I am directed to say that the practice laid down by Dr. Dyson on the subject should invariably be followed in future. All inspection reports and important communications should be sent to municipalities through the Magistrate, and intimation of a proposed visit should be conveyed in the same manner.

### **Inspection of offices of District and Local Boards by District Officers.**

*Bew., L.S.-G., Cir. No. 2491-95 L.S.-G. of 26-7-1928, to Commrs.*

I am directed to refer to Mr. O'Mally's Circular Nos. 133-137M. of 17th March 1919, requesting Commissioners to impress on District Officers the need of thorough and regular inspection of the municipalities in their districts, and to state that Government desire that the offices of District and Local Boards should be inspected regularly by District Officers in the same way as municipal offices. Statutory authority is given for such inspection by sections 120 and 121 of the Local Self-Government Act and specimen questions for inspection of the office work of District or Local Boards have been given in Chapter XII, page 27 of the Manual for the Inspection of Departments under Magistrates, but Government have reason to believe that such inspections are not made periodically as a matter of course by all District Magistrates. It need hardly be said that the work of inspection should be conducted in a helpful spirit with due regard to the self-respect of an autonomous local body under a non-official Chairman. If undertaken in the proper spirit, such inspections can do nothing but good. Moreover, when an officer is new to the work of a District Magistrate inspection gives him a closer insight into the working of local self-governing bodies than he may have hitherto obtained and is thus to be regarded as an important part of his training.

### **Submission of inspection notes of municipalities and district and local boards to Government.**

*Bew., L.S.-G., Cir. Nos. 1093-1097 L.S.-G. of 15-3-1932, to Commrs.*

I am directed to refer to circulars (1) Nos. 133-37 M., dated the 17th March 1919, and (2) Nos. 2491-2495 L.S.-G., dated the 26th July 1928, on the subject of inspection by district officers of municipalities and district and local boards and to say that in a few instances Government have received copies of the inspection notes from Commissioners and district officers on district boards and some of the larger municipalities; but Government are inclined to believe that in many districts such inspections are still not made at regular intervals; and there appear to be no recent instructions on the subject of submission of inspection notes to Government. •

2. I am directed therefore to draw your attention to the circulars quoted above and to reaffirm the policy therein laid down. Government consider it of importance that district officers should regard it as one of their duties to inspect the offices, administration and undertakings of the local authorities in the spirit of these two circulars, and as agents in this matter for Government in the Ministry of Local Self-Government. At the same time, while appreciating that the most valuable part of the inspection lies often not in the written note but in the opportunity it affords for discussion with officers and members of the local authority, Government would be glad to have copies of such written notes as district officers or Commissioners may record on these occasions. The object of such inspection notes should be to record rather the personal impression of the officer inspecting than the routine record of the activities of the local authority. I am, however, to make clear that in asking for copies of such notes to be forwarded for information it is not intended in any way to increase the amount of writing done by district officers in inspection.

I am to add that such inspections should be made in full co-operation with the Chairmen of the municipalities and district boards with a view to evaluate alike both the strong points and weak points of the municipal and district board systems at the present day.

## **Land Acquisition.**

### **Land Acquisition for Municipalities and District Boards.**

*Ben., Mun., Cir. No. 47T.M. of 16-10-1905, to Comms.*

The Government of Bengal directed that in submitting to Government proposals for the acquisition of land by municipalities and District Boards, it should be stated in each case:—

- (1) whether the work for which the land is required has received the sanction prescribed by law or rule, and
- (2) whether the cost is to be met from revenues or from borrowed funds.

### **Question whether machinery should be treated as land within the meaning of section 3(a) of the Land Acquisition Act.**

*Ben., Mun., No. 277 M. of 24-1-1925, to Chairman, Calcutta Improvement Trust.*

With reference to your letter No. XXXII—14—2, dated the 20th January 1925, I am directed to enclose a copy of the Advocate-General's opinion about an appeal to the Privy Council in a land acquisition case in which the question whether machinery should be treated as land within the meaning of section 3 (a) of the Land Acquisition Act, was decided against the Calcutta Improvement Trust by the President of the Improvement Tribunal and his decision has been upheld by the High Court.

*Opinion by S. R. Das, Esq., Advocate-General, dated the  
23rd January 1925.*

In my opinion there is a substantial question of law. I do not think the facts found by the High Court will stand in our way. The real question is whether machinery which by its heavy nature has to be fastened to a foundation so as to make it both steady for the purposes of working and yet removable whenever required can be said to be "Permanently fastened." Moreover, the question of intention is an inference of law from the facts found. I am strongly of opinion that there should be an appeal to the Privy Council.

## **Lands (District Boards).**

### **Treatment of District Board lands for purposes of recovery of cost of survey and record-of-rights.**

*Beng. Mun. (L.S.-G.), No. 683—87 L.S.-G. of 26-10-1915.*

Copies of the undermentioned documents is forwarded to the Commissioners of the Burdwan, Presidency, Dacca, Rajshahi and Chittagong Divisions for information and for communication to the District Boards in their respective divisions.

*No. 1627T.—R., dated the 15th October 1915, from the Officiating Secretary to the Government of Bengal, Revenue Department, to the Director of Land Records, Bengal.*

I am directed to communicate the following observations of the Governor in Council on the treatment of Railway and District Board lands, generally, for purposes of recovery of cost of survey and record-of-rights when such operations are taken under section 101(1) of the Bengal Tenancy Act.

2. Railway lands are Government lands acquired at the expenses of the Imperial Government under the Land Acquisition Act, even when the railway is worked by a private company, and as the Imperial Government is already paying 25 per cent. of the cost of the operations, that Government could not reasonably be asked to pay an additional contribution in respect of the railway lands. At the same time private companies (if any) which have the right of user only in such lands cannot be asked to bear a share of the survey and the preparation of record-of-rights of the land.

3. Lands in the possession of District Boards stand on a different footing. The District Board is undoubtedly an "occupant" within the meaning of section 114 of the Bengal Tenancy Act and should get a complete set of printed maps for every village in the district, and a printed *khatian* in respect of every village in which the District Board or Local Board has any land—whether a road, a tank, a dispensary, etc. The charge made in these cases should be equal to the price at

which spare copies of the printed maps or *khatians* are sold to the public and should be included in the proposals under section 114 of the Bengal Tenancy Act.

## **Lands (Government).**

### **Reversion to Government of Government lands under the control of District Boards.**

*Ben., Mun. (L.S.-G.), Cir. No. 544 L.S.-G., of 5-4-1918.*

It has been brought to the notice of Government that proper steps are not always taken to account for Government lands which were placed under the control and administration of District Boards under section 73 of the Bengal Local Self-Government Act. It is, therefore, necessary to remind District Boards that lands, the property of Government, which are placed under the control and administration of the Boards, should be entered in the register of lands prescribed by rule 80A of the Local Self-Government Account Rules, which corresponds to rule 226 of the revised draft rules published under notification No. 486 L.S.-G., dated the 18th February 1918. Such lands do not vest in the Boards, but are liable to revert to Government when no longer required for the purposes of the Local Self-Government Act. Whenever any such land is relinquished, the fact should be reported by the Board to the Collector of the district and the entry relating to it should be struck out of the Board's register.

I am to request that the above instructions may be communicated to all District Boards in your division.

### **Question whether a District Board can levy fees by granting licenses to stall-keepers to roadside lands.**

*Ben., L. S.-G., No. 62 L. S.-G. of 9-1-1926, to Commr, Dacca.  
(Copy to other Commrs.)*

I am directed to refer to your letter No. 5932 J., dated the 25th November 1925, and its enclosure, regarding the question raised by the Faridpur District Board as to whether it has power to levy fees by granting licenses to stall-keepers on the roadside lands.

2. In reply, I am to say that the matter was referred to the Legal Remembrancer, and Government have been advised that District Boards are not authorised to levy such fees under the Local Self-Government Act or the rules framed thereunder. A very slender power is given to the Chairman or Vice-Chairman of a District Board or the District Engineer under paragraph 2 (2) (a) of the model by-laws framed under sections 139 and 140 of the Act to grant permission for the construction of structures by private individuals for the sale of goods by the side of District Board roads. The proposal put forward by the Faridpur District Board really seems to be that the Chairman or Vice-Chairman or the District Engineer should not accord

his permission unless such license fees as the District Board thought fit were paid. This would not be justifiable under the by-law, the object of which is merely to prevent encroachment or obstruction on a road. The District Board may, however, deal with unauthorized squatters by a rigid enforcement of penalties provided by paragraphs (1) and (2) of by-law 46 of the model by-laws. The fines thus realised will provide a perfectly legitimate revenue under section 52 (2) of the Local Self-Government Act.

### **Power of District Boards to lease out roadside lands.**

*Bent. L.S.G., No. 2767 L.S.G., of 29-7-1927, to Commr., Pacca.  
(Copy to other Commrs.)*

With reference to the correspondence resting with your memorandum No. 3260J., dated the 23rd May 1927, regarding the powers of the District Board to lease out roadside lands, I am directed to say that Government have been advised as follows:—

2. Section 20 of the Local Self-Government Act empowers a District Board to transfer, subject to any rules made by Government, any property held by it. Immovable properties held by the Board may be classed under the following heads:—

- (i) those placed by virtue of the Act under its control and administration under section 73,
- (ii) those placed by Government under its control and administration under section 74, and
- (iii) those vested in it under section 75 or 76. These are roads or other works constructed or taken over by the Board.

3. Rules regulating the transfer of properties made under section 138 (d) of the Act are contained in Part V of the rules issued with notification, dated the 15th December 1885, as subsequently amended. Rules 93 and 94 of these rules relate to immovable properties vested in the Board and rules 96 and 97 to immovable properties placed by Government under the control and administration of the Board. These rules are subject to general rule 91. No rules similar to rules 93 and 94 or 96 and 97 have been made in respect of properties placed by virtue of the Act under the control and administration of the Board under section 73. In the absence of such rules, the Board's power to transfer this class of properties may be taken to be unlimited. But rule 92 lays down that in regard to such properties, the relation of the Board to the Government is that of agent to principal. This rule read with the heading to rule 96 suggests that immovable property held under section 73 should be treated in the same way as that held under section 74. An amendment of the rules so as to make this clear is under the consideration of Government.

4. In the absence of any definition in the Act, extending the meaning of the word "road" so as to cover roadside lands, these cannot be classed as roads or as works constructed by a District Board. (The definitions in the by-laws under section 139 are not applicable to rules under section 138.) They can be classed only as lands or immovable property and dealt with under sections 75 and 76 (i.e., as property placed by the Act or by the Government under the control and



administration of the Board) but not under sections 75 and 76 (i.e., roads or other works constructed or taken over by the Board and thus vested in it). In other words, roadside lands do not vest in the Board unless they have been acquired by it. Consequently the lease of roadside lands not acquired by the Board ought to be governed by rules 96 and 97.

5. It, therefore, follows that if roadside land is held under section 73 or 74, rules 96 and 97 will apply. If roadside land is held under section 75 or 76, its transfer will be regulated by rules 93 and 94.

If, however, a land forms the slope or berm of a road, it may be considered as part of the road. In determining which of the above-mentioned rules will apply to such land, regard should be had to the sections under which it is held by the Board. It is, however, expected that in the matter of granting leases the Faridpur District Board will be guided by Government order No. 62 L. S.-G., dated the 9th January 1926, even when the road in question vests in it.

## Land-holding.

### Connection of salaried officers of District Boards and District Road Committees with land-holding.

*Ban., Mun. (L.S.-G.), Cir. No. 51 of 26-11-1896, to Commsr.*

With reference to paragraph 7 of the Resolution of the Judicial Department of this Government, No. 11J.—D., dated the 22nd April 1896, regarding the connection of public servants with land-holding (a copy of which was forwarded to you with that Department circular No. 13J.—D., of the same date), I am directed to say that the Lieutenant-Governor considers it desirable that, as in the case of Government servants, every salaried officer of a District Board or District Road Committee, whether in superior service or belonging to the ministerial establishment, should be required to submit every year to the Chairman a statement in the enclosed form, showing the landed property owned by him, or in which he, his wife or any other member of his family living with, or in any way depend on him, may have any interest. Candidates for employment under those bodies should also be required to furnish similar statements before they are appointed. These registers should be kept separately for superior and ministerial officers, and cares should be taken that they are maintained up-to-date year after year. I am to request that instructions may be issued accordingly to the District Boards and Road Committees in your Division.

2. If in any case the fact that an officer already in the employment of a District Board or Road Committee holds certain land is, in the opinion of the Chairman, a bar to his being retained in the district in which the land is situated, the fact should be reported through you to Government in this Department for orders.

Name of officer	District and subdivision in which the property is situated	Extent of the property	Annual value of the property	Method by which it was acquired by the proprietor, i.e. inheritance, purchase, etc.	Nature of the interest of the officer in the property	Remarks.
1	2	3	4	5	6	7

## Licenses.

### Conditions to be imposed in the grant of licenses for markets and under the Hackney-Carriage Act.

*Ben., L.S.-G., Nos. 229-33-T -- L.S.-G. of 12-6-1921, to Comms.*

I am directed to say that in order to safeguard the public against the general inconvenience and dislocation of business caused by the mischievous activities of non-co-operationists, the Government of Bengal (Ministry of Local Self-Government) consider it desirable that it should be made a condition of the licenses granted, under the Hackney-Carriage Act, that they will be liable to be cancelled by the Municipal Commissioners if the owners or drivers refuse to ply hackney-carriages for hire. It is further considered desirable that it should be made a condition of the licenses for markets, granted under section 338 of the Bengal Municipal Act, that the market shall not be closed without the permission of the Municipal Commissioners and that closure without such permission may entail the cancellation of the licenses. The Commissioners of municipalities in which the Calcutta Hackney-Carriage Act and Part X of the Bengal Municipal Act are in force should be informed accordingly.

### Model conditions for the grant and withdrawal of licenses for slaughter-houses under section 407 of the Bengal Municipal Act and model bye-laws under section 414 of the Bengal Municipal Act, regulating slaughter-houses for the slaughter of animals meant for human consumption.

*Ben., Mun., Cir. Nos. 4233-4237 M. of 11-9-1934, to Comms.*

I am directed to forward herewith a set of model conditions for the grant and withdrawal of licenses for slaughter-houses under section 407 of the Bengal Municipal Act, 1932, and a set of model by-laws regulating slaughter-houses for the slaughter of animals meant for human consumption, framed under section 414 of the Act, for circulation to the Municipal Commissioners in your Division for their guidance. I am to request that whenever the conditions or by-laws proposed to be imposed or adopted by the Commissioners of any municipality differ materially from these models on any point, the reason

for the variation may be explained when those conditions or by-laws are submitted to Government for their approval under section 407 or confirmation under section 506 of the Act.

*Memo. No. 4238 M., dated the 11th September 1934.*

Copy forwarded to the Revenue Department of this Government for information.

*I.—Model conditions for the grant and withdrawal of licenses for slaughter-houses under section 407 of the Bengal Municipal Act.*

1. No license shall be granted under section 407 for the use of any premises for the slaughter of animals until the Health Officer or any other competent officer appointed by the Commissioners in this behalf has certified that the premises are furnished with satisfactory arrangements for ventilation, water-supply and drainage and are otherwise suitable for the purpose.

2. *Location.*—The premises shall not be located within one-hundred feet of any dwelling house or within fifty feet of a public street.

3. No part of the premises shall be below the level of the surrounding ground.

4. *Construction.*—The proposed slaughter-house shall be well paved with asphalt, concrete, cement, marble, stone or any other non-absorbent material. It shall be constructed on a slope and provided with a channel leading into a drain: the drain shall be properly trapped and covered with grating, the bars of which shall not be more than three-eighths of an inch apart. Adequate provision shall be made for the effectual drainage of the slaughter-house compound.

5. The walls of the proposed slaughter-house shall be made impermeable with glazed tiles, cement plaster or any other suitable material up to a height of six feet above the floor.

6. The proposed slaughter-house shall be surrounded by a wall to conceal it from the public view.

7. There shall be a quarantine pen, maintained for the purposes of the slaughter-house where animals which show signs of developing any disease communicable to human beings may be isolated for observation for at least twenty-four hours before slaughter. The quarantine pen shall be at least one hundred feet from any dwelling house and shall be well paved, properly drained and ventilated. There shall be arrangements for providing the animals kept in the quarantine pen with sufficient fodder and water.

8. There shall be no water closet, earth closet, privy, urinal or cesspool within the proposed slaughter-house.

9. Adequate provision shall be made for storage of water in the proposed slaughter-house for washing the same, the bottom of the storage tank shall be at least six feet above the floor of the slaughter-house. There shall be water troughs for watering the animals before slaughter.

10. The license of any slaughter-house may be withdrawn if at any time it fails to fulfil the above conditions or if there is any breach in respect of the slaughter-house of any by-law made under section 414 of the Bengal Municipal Act.

*II.—Model by-laws under section 414 of the Bengal Municipal Act, regulating slaughter-houses for the slaughter of animals meant for human consumption.*

1. Animals shall be slaughtered as humanely as possible.

2. No dogs shall be permitted within the slaughter-house.

3. *Hours of work.*—The hours of work fixed by the Commissioners shall be conspicuously printed on a board with the name of the lessee and displayed in a conspicuous place in the slaughter-house.

4. The slaughter-house shall be sufficiently lighted to allow for work after dusk.

5. Trees shall not be permitted to overhang the premises. The slaughter-house may be enclosed by wire-netting to prevent the entrance of birds.

6. No portion of the slaughter-house shall be used for living or sleeping unless it is separated from the place where animals are slaughtered by a substantial wall and contains a window or windows opening directly to the air and of dimensions not less than one-tenth of the superficial area of the floor space.

7. No person suffering from and contagious or infectious disease shall be employed or allowed to enter the slaughter-house.

8. Bones, offal, gut, hoofs, horns and other refuse shall be kept in properly constructed, covered and removable vessels made of non-absorbent material until arrangements can be made to remove them.

9. At the close of every working day every floor or pavement shall be thoroughly washed and all fragments of gut, blood or other matters detached in the process of disembowelling and skinning shall be collected and placed in suitable vessels or receptacles to be forthwith removed with their covers from the slaughter-house for disposal in a manner approved by the Commissioners. Each such vessel shall be constructed of non-absorbent material and shall have a closely fitting cover and shall contain a sufficient quantity of deodorant or disinfectant.

10. At the close of every working day every bench, table, tub, vessel, utensil or implement, which has been in use during the day, shall be thoroughly cleansed with water containing a deodorant or disinfectant.

11. At the close of every working day all filth, blood or refuse which may have been splashed upon any inside portion of the slaughter-house shall be removed by scraping or other effectual means.

12. Every vessel or receptacle when not in use shall be kept thoroughly clean.

13. Within the first ten days of March, June, September and December the interior of the slaughter-house above the floor or pavement shall be thoroughly washed with hot lime-wash if such place has been in use as a slaughter-house since the last occasion on which it was so washed:

Provided that if any part thereof is covered with impervious material, it shall be sufficient to cleanse the same thoroughly with water.

14. The interior of the slaughter-house shall not be allowed, by reason of want of repair to the surface thereof, to facilitate the absorption of any liquid filth or refuse or other noxious or injurious matter.

15. *Inspection of meat.*—The licensee shall permit the meat to be inspected after slaughter by a competent person appointed by the Commissioners in this behalf to find out cyste cercus cellulose, tubercular infection or any other infective or unwholesome condition of the carcass. Carcasses showing signs of tubercular infection or encysted tape worms (cyste cercus cellulose) shall be destroyed.

16. If the Commissioners arrange for the meat to be stamped after inspection by a competent person to indicate the quality of the meat or if they fix prices for different grades of meat to be sold in public markets, the licensee shall permit the meat to be so stamped and shall sell the meat at the prices fixed.

17. *Penalty.*—The breach of any of the above by-laws shall render the license of any private slaughter-house liable to suspension.

### **Prescribed form for granting a license by a union board for a trade in carbide of calcium.**

*Ben., L.S.-G., Cir. Nos. 1870-1874 L.S.-G. of 6-4-1937, to Commr.*

I am directed to say that by Government notification No. 5523-L.S.-G., dated the 20th September 1935, issued under section 34 of the Bengal Village Self-Government Act, 1919, a trade in carbide of calcium has been declared to be a dangerous trade and the maximum fee for the grant of a licence by union boards for the possession of carbide of calcium up to a certain limit has been prescribed. By their notification No. M. 1171(2), dated the 7th December 1935, the Government of India have limited the operation of the Village Self-Government Act to the possession of carbide of calcium not exceeding twenty-eight pounds.

2. As the rules and forms prescribed under the Indian Petroleum Act, 1899, in respect of carbide of calcium do not apply to the smaller quantities of carbide, which are outside the purview of the Act, the Commissioner of the Rajshahi Division has proposed that a form may be standardized for use by union boards for the grant of licences to persons storing carbide up to 28 pounds and that certain conditions and rules for the grant of such licences may be appended to such form.

3. I am to explain that there is no specific provision in section 101 or in any other section of the Village Self-Government Act, 1919, authorizing Government to prescribe the proposed form, rule or conditions. On the contrary, subject to the approval of the District Magistrate, a union board is, under sub-section (3) of section 34, authorized to levy a fee in respect of any licence granted by it, for any trade declared to be offensive or dangerous, and to impose such conditions as they may consider necessary. Since, however, in dealing with such a highly inflammable material as carbide of calcium, the union boards

may find it difficult to prescribe the necessary terms and conditions of the licence and as it is desirable that there should be a certain amount of uniformity in the form of licence and the terms and conditions used and applied by different union boards, Government are pleased to append the following sample form, conditions and rules for the guidance of union boards in the matter.

4. I am to request that in granting a licence for a trade in carbide of calcium, the union boards in your division may be requested, to use the form, etc., with such modifications, if any, that may be considered necessary and approved by the District Magistrate.

*Memo. No. 1875 L.S.-G. of the 6th April 1937.*

*License for possession for purposes of trade not more than 28 pounds of Carbide of Calcium.*

No. ....	No. ....
Fees Rs. ....	A licence under section 34(2) of the Village
Name of licensee.....	Self Government Act, is granted to.....
Place of business.....	..... of village .....
.....	..... in Union and..... of P.S.....
Name of Police station.....	District .....
.....	subject to conditions endorsed herein, for possession
Name of Union Board.....	for purposes of trade of a quantity of carbide
.....	of calcium not exceeding 28 pounds at any one
Date of issue.....	time.
Date of expiry.....	The licence shall remain valid till 31st
President of.....	Chaitra, B.S.
Union Board, P.S.....	
District .....	

Union Board Office.....

President of.....

Union Board, P.S.....

Police-station.....

District.....

### *Conditions.*

1. No carbide of calcium shall be kept at any place, with or without a license, unless it is commercially pure, i.e., unless it contains no impurities which would render the gas evolved liable to spontaneous ignition.

2. The carbide of calcium shall be stored in receptacles which—

- (i) are made of metal but have no copper in their composition;
- (ii) are hermetically closed at all times except when their contents are being placed within them or withdrawn from them;
- (iii) bear a stamped, embossed painted or printed warning exhibiting in conspicuous characters the words "Carbide of Calcium—Dangerous if not kept dry" and the following caution:—

"The contents of this package are liable, if brought into contact with moisture, to give off a highly inflammable gas."

3. Where the quantity of carbide of calcium to be stored does not exceed 5 lbs. it shall be kept only in the prescribed receptacles each containing not more than 1 lb.

4. Where the quantity of carbide of calcium to be stored exceeds 5 lbs. the following additional conditions shall also be observed:—

- (a) the receptacles shall be stored in a dry and well ventilated place;
- (b) due precautions shall be taken to prevent unauthorised persons from having access to the carbide;
- (c) notice shall be given of such storage to the district authority and free access shall be afforded to any duly authorised person to inspect the premises where the carbide is stored and the generator, if any, is situated;
- (d) where a fixed generator is used on the premises detailed instructions as to the care and use of the generator shall be kept constantly posted up in a place where they can conveniently be referred to by the generator attendant.

5. (1) Every vendor of carbide of calcium, delivering any quantity exceeding half a pound to any person, shall deliver it to him in a receptacle of the nature prescribed.

(2) No vendor shall open more than one receptacle at a time for the purpose of delivering carbide of calcium.

### *Rules.*

1. (a) The fee for all licences to possess carbide of calcium of not more than 28 pounds at a time is Re. As. . The fee is payable in advance with the application for licence in cash. The renewal fee is Re. As. , if the application is made at a date not less than 15 days prior to the date on which the original licence expires.

(b) The Chief Inspector, an Inspector or an Assistant Inspector of Explosives, the District Magistrate, the Subdivisional Magistrate or any Magistrate subordinate to the District Magistrate appointed by him in this behalf by order in writing, or any police officer of or above the rank of Inspector appointed by the District Magistrate in this behalf in writing or any other officer appointed by the Local Government in this behalf, may at any time enter any premises in respect of which a licence to possess carbide of calcium has been granted, for the purpose of inspecting the same.

(c) The licensee of any premises inspected shall personally or through a representative show to the officer so inspecting every place and every vessel in which carbide of calcium in his possession is kept, deliver any samples required, and give such assistance as that officer may require.

(d) Any person holding a licence or acting under a licence granted under these rules shall be bound to produce the same when called upon to do so by any Magistrate or police officer of or above the rank of an Officer-in-charge of a police-station.

(e) Any explosion or accident occurring in connexion with the importation, transport, possession or sale of carbide of calcium shall be reported by the person in charge of the same for the time being, without delay, at the nearest police-station.

(f) In case of death, insolvency and mental incapability or otherwise the person carrying on the business of such licensee shall make an application for a new licence in his own name for the unexpired portion of the original licence on payment of Re. As.

2. (a) If any person fails to comply with the conditions of the licence his licence shall be cancelled and he may be disqualified for holding a licence in future.

(b) Any one, who is dissatisfied with the orders of the union board refusing, suspending or cancelling a licence or imposing conditions in respect of a licence may prefer an appeal to the District Magistrate within thirty days from the date of such order, and the decision of the District Magistrate thereon shall be final.

## Liveries.

### Liveries for orderlies, etc., in the employ of Local Bodies.

*Ben., Mun. (L.S.-G.), Cir. No. 11 of 16-2-1910, to Comms.*

In Mr. Shirres' Circular No. 769 L.S.-G., dated the 11th February 1905, authority was given to supply warm clothing to the personal orderlies of Chairmen, Vice-Chairmen and District Engineers of District Boards. In Circular No. 5 L.S.-G., dated the 12th February 1906, the same principle was extended to orderlies serving under certain municipal officers of like standing, and it was stated that warm clothing should not be supplied to other menial servants. The general principle upon which these orders proceeded was that privileges should not be allowed to District Board employes which are withheld from Government servants in similar positions.



2. Subsequently Government has, in various occasions sanctioned the supply of clothing in particular cases not covered by the above orders, but on reconsideration the Lieutenant-Governor is of opinion that the matter is one in which local bodies may safely be left a free hand. In the interests of economy they would do well to be guided by the rules laid down by Government for the supply of liveries to its own servants, but His Honour is prepared to leave the application of those rules to the individual cases of the servants of local bodies to the discretion of those authorities. The previous orders on the subject should be held to be superseded.

## Loans.

### Time for floating by local authorities of loans of considerable magnitude.

*Ind., Finl. No. 5270A., of 19-9-1906. Ben., Mun., Cir. No. 17T.M. and Nos. 2223-27 of 15-10-1906, to Commrs., etc.*

I am directed to forward for the information of the Government of Bengal a copy\* of the letter from this Department, No. 4366-A., dated the 8th July 1904, in which it was explained that the State claims precedence in the demands upon the money market in India, and that, in order to prevent a possible depreciation of the price at which loans can be raised by the Government of India, it is necessary to arrange that no loan of any considerable magnitude shall be floated by any local authority at or about the same time as a Government loan.

2. I am to request that, with the permission of His Honour the Lieutenant-Governor, these orders may be brought to the notice of the Corporation of Calcutta, the Port Commissioners of Calcutta, and other local bodies in Bengal who raise loans in the open market. They should be informed that in all cases in which general sanction has been given by the Government of India to their raising a loan, the dates proposed for the issue of future instalments of the loan and the amounts of those instalments must be reported for the previous approval of the Government of India before any instalment is advertised for tender, and that neither the dates nor the amounts of the instalments may be varied without such approval.

3. I am further to request that in future, whenever a proposal of a local authority to raise a loan in the open market is submitted for the sanction of the Government of India, the dates within which the loan is to be raised may be expressly stated. If it is proposed to raise the loan in instalments, the dates within which the first instalment is to be raised should be specified; and separate sanction should be applied for and similar information furnished, before any further instalment is put on the market.

\*Not printed as the substance is given.

4. The same principles should be taken as governing the issue of bills by a local authority under the Local Authorities Act, III, 1904. The dates within which it is proposed to issue any such bills, and the proposed date of maturity, should be specified in the application for sanction; and if it is desired to renew any bills so issued, the previous sanction of the Government of India should be obtained.

**Revised form of application for loans for the use of Municipalities.**

*Ben., Genl. (Mun.), Cir. No. 15 L.S.-G., of 25-6-1914, to Comms. of Divns.*

I am directed to refer to (1) Circular No. 2M., dated the 10th January 1912, to the Commissioners of the Burdwan and Presidency Divisions, and (2) Government order Nos. 415-17T.M., dated the 31st May 1912, to the Commissioners of the Dacca, Chittagong and Rajshahi Divisions, circulating a specimen form of application for loans for the use of District Boards and municipalities revised in accordance with the instructions contained in the Government of India (Finance Department), circular No. 6106A., dated the 11th October 1911.

2. The attention of Government has since been drawn to the fact that the particulars regarding outstanding loans required under head (c) on the back of the existing form are insufficient. Fuller details will accordingly be required with future applications and the submission of a statement of all outstanding loans specifying the date when taken, the purpose (very briefly), the amount, the annual charges involved, and the amount still payable in respect of each loan has therefore been prescribed.

3. Moreover the figure of normal surplus, which may be expected in future (column 20 of the form), has been found to be incorrectly reported in most cases. When the application is accurately prepared in accordance with the instructions of Government this surplus should be the difference between the average ordinary income and the average ordinary expenditure of the borrowing body calculated on figures in columns 12 to 19 of the form. When, however, the normal surplus calculated on this principle does not indicate the true state of the finances of the municipality, the real financial position should be brought out by an examination of the details of receipts and expenditure or of the prospects of increased or diminished revenue or expenditure in the near future. To enable local bodies to do this conveniently a separate heading (d) has been prescribed on the back of the form.

4. Copies of the form of application as now revised are enclosed, and I am to request that they may be circulated to all the municipalities in our division for adoption in place of the form already circulated.

5. This form has been further modified for the use of District Boards, and copies of it are being sent to you separately with necessary instructions.

## Municipality for a loan of Rs.

## Application from the Commissioners of the

1	The work or works for which the loan is required and the estimate of the cost thereof.	2	The amount which it is proposed to borrow.	3	Municipal Fund.	4	The fund or funds on the security of which it is proposed to borrow.	5	The law or laws under which the said fund or funds is or are levied.	6	The period for which the loan is required.	7	The rate of interest at which it is proposed to borrow.	8	The number of instalments in which it is proposed that the loan should be taken.	9	The amount of each instalment.	10	The date proposed for receiving each instalment.	11	The number of instalments in which the loan is repayable and the dates of payment thereof.	12	Amount of each instalment.	13	(a) Municipal rates and taxes. (b) Realizations under special Acts. (c) Revenue derived from municipal property and powers apart from taxation. (d) Grants and contributions for general and special purposes. (ordinary). (e) Miscellaneous Total ordinary income.	14	Source from which the revenue is derived.	15	Amount for—	16	Objects on which the expenditure is incurred.	17	Amount for—	18	Re. Rs.	19	Re. Rs.	20	The normal surplus which may be expected in future, i. e., the difference between the average ordinary income and the average ordinary expenditure calculated on the figures in columns 13 to 16 and 17 to 19 respectively.	21	Remarks.
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In addition to the details required on the reverse, clear information should be given below under the following heads:—

(a) If the ordinary surplus is insufficient to meet the charges of the proposed loan, the particular steps which the municipality has taken, or has agreed to take, in order to make good the deficiency.

(b) The reserve of taxation or other possible means of increase in the revenues of the municipality.

(c) A statement of all outstanding loans specifying, in respect of each loan, the date when taken, the purpose (very briefly), the amount, the annual charges involved, and the amount still payable.

(d) Any explanations in regard to receipts and expenditure to show the true financial position of the municipality when such position is otherwise than the ordinary surplus would indicate.

#### **Revised form of application for loans for the use of District Boards.**

*Ben., Gnl. (Mupl.), Cir. No. 14 L.S.-G. of 25-6-1914, to Comms. of Divns.*

I am directed to refer to (1) Circular No. 2M., dated the 10th January 1912, and (2) Government order Nos. 415-17T.M., dated the 31st May 1912, circulating a specimen form of application for loans for the use of District Boards and municipalities revised in accordance with the instructions contained in the Government of India, Finance Department, circular No. 6106A., dated the 11th October 1911.

2. The attention of Government has since been drawn to the fact that the heads of revenue and expenditure shown in columns 12 and 16 of the form, already circulated, are appropriate only to municipal accounts and not to the accounts of District Boards. It has accordingly been decided to restrict the use of the present form with some slight modifications to municipalities and to prescribe a separate form for the use of District Boards.

3. I am to take this opportunity of explaining that the particulars regarding outstanding loans required under head (c) on the back of the existing form have been found to be insufficient. Fuller details will accordingly be required with future applications, and the submission of a statement of all outstanding loans specifying, in respect of each, the date when taken, the purpose (very briefly), the amount, the annual charges involved, and the amount still payable, is therefore prescribed.

4. Moreover, the figure of normal surplus which may be expected in future (column 20 of the form) has been found to be incorrectly reported in most cases. When the application is accurately prepared in accordance with the instructions of Government, this surplus should

be the difference between the average ordinary income and the average ordinary expenditure of the borrowing body calculated on the figures in columns 12 to 19 of the form. When, however, normal surplus calculated on this principle does not indicate the true state of the District Boards' finances, the real financial position should be brought out by an examination of the details of receipts and expenditure or of the prospects of increased or diminished revenue or expenditure in the near future. To enable local bodies to do this conveniently, a separate heading (d) has been inserted on the back of the form.

5. Copies of the form of application as now revised for use by District Boards are enclosed, and I am to request that they may be circulated to all the District Boards in your division for adoption in lieu of the forms already circulated.







In addition to the details required on the reverse, clear information should be given below under the following heads:—

(a) If the ordinary surplus is insufficient to meet the charges of the proposed loan, the particular steps which the District Board has taken, or has agreed to take, in order to make good the deficiency.

(b) Possible means of increase in the revenues of the District Board.

(c) A statement of all outstanding loans specifying, in respect of each loan, the date when taken, the purpose (very briefly), the amount, the annual charges involved, and the amount still payable.

(d) Any explanations in regard to receipts and expenditure to show the true financial position of the District Board when such position is otherwise than the ordinary surplus would indicate.

### **Principle on which loans should be granted to local bodies for water-works and drainage works.**

*Beng. Mun., Nos. 6-10 T.M. of 14-5-1919, to Commrs.*

The Sanitary Board, Bengal, recently appointed a sub-committee to consider certain questions connected with the depreciation of waterworks and drainage works of municipalities and District Boards. The committee's report, which is now under the consideration of Government, deals *inter alia* with the principle on which loans should be granted to local bodies for those works and contains the following recommendations:—

In regard to the term for repayment of a loan, it has been ascertained that the English practice is to fix the term with the object of limiting it, as far as possible, to the probable useful life of the work and with considerable regard to the principle that each generation should bear its own burdens. Consequently, the most usual period for the repayment of loans for similar purposes in England in respect of works likely to have a useful life of at least 30 years is 30 years. In calculating the probable useful life of a work regard is had to the prospect of obsolescence as well as mere decay.

We advise that, having regard to more severe climatic conditions, to the greater risk of calamities due to flood and to serious convulsions of nature to which such works are subjected in Bengal than in England, the maximum term of a loan should be limited to 30 years.

We would further advise that the term should be compounded, *i.e.*, that machinery, boilers, steel pipes, buildings of a semi-permanent nature designed only to house the plant first installed without reference to extensions or additions, and any other parts of the project which are judged to have a comparatively short period of useful life, should be assigned a useful life of 15 years only. Cast-iron pipes, masonry or concrete reservoirs, culverts and sewers, and buildings of a permanent nature and designed to provide for extensions or additions to the plant first installed, should be assigned a useful life of 30 years. The term of a loan should then be fixed at a period between 15 and 30 years to be assessed in relation to the estimated cost falling under each of the two periods of life.

2. Both the Sanitary Board and the Government have accepted the above recommendations. I am to request that the municipalities and District Boards in your Division may be informed that the terms of loans which they may take from Government for water-supply and drainage schemes will, in future, be determined in accordance with the principle laid down by the committee.

**Loans by District Boards to Union Boards to finance water-supply schemes.**

*Ben., L.S.-G., Nos. 2244-48 L.S.-G. of 10-4-1924, to Commrs.*

I am directed to refer to your letter No. 610 L.S.-G., dated the 18th March 1924, in which you state that some of the Union Boards in the Birbhum district are willing to take loans from the District Board for financing water-supply schemes in their respective areas and enquire whether the District Board can make loans to subordinate local bodies for the purpose.

2. In reply I am to say that Government have been advised that section 79 of the Local Self-Government Act authorizes a District Board to give loans or contribute for the improvement of water-supply. Moreover, as a Union Board is a "local authority" in accordance with the definition of the term in section 2 of the Local Authorities' Loans Act, 1914, it follows that it can borrow under the provisions of this Act. There is thus no objection to a District Board giving loans to a Union Board or a Union Board taking loan from a District Board. The loan will be treated as a non-Government loan and will be regulated in all matters, including interest, by the Local Authorities' Loans rules.

3. I am to add that provision has been made in the Local Self-Government Amendment Bill, 1923, formally authorizing District Boards to grant loans to Union Boards subject to such conditions as regards the rate of interest and the method and period of repayment as the local Government may by rule impose.

4. It is requested that a copy of this order may be communicated to all District and Union Boards in your division.

**Local Boards.**

**Election of members of Local Boards.**

*Ben., Mun. (L.S.-G.), No. 150, and Cir No. 3 of 24-1-1891, to Commrs*

With reference to your letter No. 1248J., dated the 23rd September 1890, and its enclosures, regarding the use of thana premises for holding elections of members of Local Boards, I am directed to say that the Lieutenant-Governor is of opinion that the Magistrate-Chairman of a district should be allowed to exercise his own discretion in fixing the most suitable place under his control as the place where elections are to be held, and that when any police building or its compound is selected for the purpose, notice should always be given to the District Superintendent of Police. This decision has been communicated to the Inspector-General of Police.

*Ben., Mun., (L.S.-G.) No 982 of 17-3-1893.*

In reply to a reference it was ruled that the travelling allowance of gazetted officers of Government deputed to conduct the election of members of Local Boards is payable by Government.

*Ben., Mun. (L.S.-G.), Cir. No. 31M. of 4-12-1893, to Commrs.*

The Bengal Government ordered that separate reports should be submitted giving the result of the election of members of each Local Board whenever that event took place.

### **Removal of members of Local Boards for continued absence.**

*Ben., Mun. (L.S.-G.), Cir. No. 3T.—M of 28-10-1899, to Commrs.*

I am directed to say that when a member of a Local Board is absent from six consecutive meetings of the Board and thus becomes liable to removal under section 18 (c) of the Bengal Local Self-Government Act, III (B.C.) of 1885, it is not necessary to submit the case to Government if both the Commissioner of the Division and the Magistrate of the district agree that the excuse offered by the member is insufficient. In such cases it may be assumed that Government accepts the excuse and the member may retain his seat. Those cases only need be submitted to Government in which either the Commissioner of the Division or the Collector thinks that the member should vacate his seat on the Board.

### **Subdivisional Officers not to be appointed members of Local Boards.**

*Ben., L.S.-G., No. 46T.—L.S.-G. of 18-5-1921, to Commr., Rajshahi.*

With reference to your letter No. 642M., dated the 25th March 1921, I am directed to say that the orders contained in this department memorandum No. 1906 L.S.G., dated the 31st May 1893, that if Subdivisional Officers who have been appointed members of Local Boards are not elected Chairmen they should resign, should be regarded as still in force.

2. Under the orders conveyed in this department letter No. 2108—12 L.S.-G., dated the 16th April 1921, officials are not to be elected as Chairmen of Local Boards. A position of some difficulty and embarrassment may be created if a Subdivisional Officer serves as a member without being Chairman, and the Government of Bengal (Ministry of Local Self-Government) have, therefore, decided that in future Subdivisional Officers should not be appointed members of Local Boards.

## Local Bodies.

**Police officers below the rank of Assistant and Deputy Superintendents of Police as members of District and Local Boards, Municipalities, Union Committees, &c.**

*Ben., Mun. (L.S.-G.), Cir. 27.—L.S.-G. of 14-6-1916, to Commrs of Divns.*

I am directed to refer to this department letter Nos. 429-33 L.S.-G., dated the 1st October 1915, regarding the question whether police officers below the rank of Assistant Superintendent of Police and Deputy Superintendent of Police should be appointed members of District Boards, Local Boards, Municipalities, Union Committees, School and Dispensary Committees. The Governor in Council has carefully considered the reports of the local officers of Government and the opinions received from various local bodies in the province, and has arrived at the following conclusion.

2. In the case of District Boards the number of official members who may be appointed by Government is limited; and, if a police officer is appointed, he should be the Superintendent of Police. It will be impracticable to appoint a subordinate police officer to be a member of a District Board, both on this account and also because it is not desirable to appoint a subordinate police officer to be a co-member with the Superintendent of Police.

3. In the case of Local Boards it is believed that the local knowledge and experience of Police Inspectors would be of value to those bodies; and the Governor in Council is therefore of opinion that in making nominations for the appointment of members of Local Boards, District Officers should, if they do not nominate an Assistant Superintendent or Deputy Superintendent of Police, consider whether Inspectors can be appointed, provided that the Superintendent of Police consents to their serving and that their appointment does not involve the exclusion of local representatives who may be likely to be more useful members.

4. As regards the proposal to appoint subordinate police officers as Commissioners of municipalities, the Governor in Council considers that if an inspector or sub-inspector of police takes an active part in the municipal administration, there is a danger that he may neglect his police duties and become involved in party factions. It cannot also be contended that the local knowledge of inspectors or sub-inspectors would be superior to that of ordinary Commissioners, or that their experience would be of special value in the deliberations of Municipal Boards. It is not likely, therefore, that their appointment would be of any special benefit to the municipalities, and I am accordingly to say that it is not considered desirable to appoint inspectors or sub-inspectors of police as Municipal Commissioners.

5. As regards the constitution of Union, Dispensary and School Committees, I am to observe that inspectors and sub-inspectors of police would be useful members of those bodies, and that it is desirable that they should interest themselves in the medical, educational and other needs of the villages and unions in which they are stationed.

**District Officers should therefore be asked to consider the desirability of appointing police inspectors and sub-inspectors to those committees when appointments are made, subject in each case to the previous consent of the Superintendent of Police.**

**Judicial officers as members of District and Local Boards and Municipalities.**

*Ben., Mun., No. M.-A.-108 of 13-12-1888, to India.*

In reply to an enquiry made by the Government of India, as to whether Judicial officers in the Lower Provinces are eligible for appointment as members of District and Local Boards and municipalities, the Government of Bengal wrote:—

I am directed to forward, for the information of the Government of India, a copy of the papers noted below, from which it will appear\* that though there is no legal objection to the appointment of Judicial officers as members of District and Local Boards or of Municipal Committees. Local Authorities have been instructed, in accordance with the wishes of the High Court, that such appointments are inadvisable and that, except under special circumstances, the Lieutenant-Governor will not approve the acceptance by a Judicial officer of a post which involves executive responsibility.

Circular No. 3VS., dated the 11th December 1876.

Letter No. 2323VS., dated the 11th December 1876, to the High Court.

Letter No. 183, dated the 29th January 1877, from the High Court and enclosure.

Letter No. 661, dated the 9th February 1877, to the High Court.

Letter No. 130, dated the 2nd March 1882, to the High Court, and enclosure.

**Public Works Department officers as members of District and Local Boards and Municipalities.**

*Ben., Mun. (L.S.-G.) Cir. No. 35M. of 6-12-1895, to Commrs.*

It has been brought to the notice of Government that subordinates of the Public Works Department are occasionally nominated as Commissioners of municipalities and as members of District and Local Boards. His Honour the Lieutenant-Governor does not approve of these officers being appointed Municipal Commissioners, nor should any Public Works Department officer be appointed a member of the District Board except the Executive or Assistant Engineer. But there is no objection to the appointment of the officer in charge of a Public Works subdivision to be a member of the Local Board in whose jurisdiction he may be stationed.

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\*Not reproduced.

*Ben., Mun., Nos. 1904-08 M. of 26-6-1936, to Commsr.*

I am directed to invite a reference to this department Circular No. 35 M., dated the 6th December 1895, regarding the appointment of Public Works Department officers as Commissioners of municipalities and as members of District and Local Boards. As by present usage the term "Assistant Engineer" referred to in this Circular includes only Assistant Engineers (Bengal Engineering Service) and does not include Assistant Executive Engineers of the Indian Service of Engineers, I am to request that a comma and the words "Assistant Executive" may be inserted after the word "Executive" so as to make it clear that there is no objection to Assistant Executive Engineers being appointed as Commissioners of municipalities and members of District Boards.

**Profession or occupation of gentlemen elected or nominated as members of District and Local Boards and Municipalities to be reported to Government.**

*Ben., Mun., Cir. No. 2 of 13-1-1891, to Commsr.*

I am directed to request that, in submitting the names of gentlemen elected or nominated for appointment as members of District and Local Boards and municipalities in your Division, for notification in the *Calcutta Gazette*, the profession or occupation of each gentleman may invariably be given. These details are required not for publication, but for the information of Government. I am also to request that a table may be furnished with your annual reports on the working of District Boards and municipalities in your Division, showing the total number of gentlemen of each profession or occupation serving as members of each District and Local Boards and Municipal Committee.

*Ben., L. S.-G., Nos. 1259-1263 L. S.-G. of 8-4-1926, to Commsr.*

The instructions in the first part of the above order having not been strictly followed in every instance, Commissioners of Divisions were asked to follow them invariably. It was also directed that, in the case of District or Local Boards, the usual place of residence of each person elected and nominated should also be reported to Government.

**Appointment of Assistant Surgeons and Civil Hospital Assistants as members of local bodies.**

*Ben., Mun. (L.S.-G.), Cir. No. 4 of 27-1-1893.*

The Lieutenant-Governor has had under consideration the question of the appointment of Assistant Surgeons and Civil Hospital Assistants as Honorary Magistrates, and as members of local bodies in mufassal

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\*Now designated as Sub-Assistant Surgeons.

stations. There are five classes of public offices for appointment to which these officers are frequently recommended, viz.:—

- I. Honorary Magistrates.
- II. Members of District Boards.
- III. (a) Chairmen of municipalities or Local Boards and (b) Vice-Chairmen of municipalities or Local Boards.
- IV. Commissioners of municipalities.
- V. Members of Local Boards.

2. After giving the matter his careful consideration, and after consulting the Inspector-General of Civil Hospitals, who, on more than one occasion, has objected to medical subordinates being employed in offices outside the sphere of their legitimate professional duties, the Lieutenant-Governor has come to the following conclusions:—

(i) Assistant Surgeons and Civil Hospital Assistants should not be recommended for appointment as Honorary Magistrates. As a rule, they have not the requisite leisure, and it may happen in certain circumstances that they may have had to deal in their medico-legal capacity with cases which afterwards come before them on the Bench.

(ii) They should not be recommended for appointment as members of District Board. They do not move about in the interior, and being constantly at headquarters they know but little of the district, and have no means of acquiring knowledge regarding its internal condition and requirements.

(iii) For administrative reasons it is considered objectionable to appoint Assistant Surgeons or Civil Hospital Assistants as Chairmen or Vice-Chairmen of municipalities or Local Boards. Officers should accordingly be requested to refrain from making such recommendations.

3. There remain then two classes of public appointments for which these officers may without objection be recommended, viz., Commissioners of municipalities and members of Local Boards. In the former capacity Assistant Surgeons and Civil Hospital Assistants can, without detriment to their legitimate duties, render much valuable assistance by advising and superintending in matters relating to the conservancy and sanitary arrangements of the municipality in which they reside while as members of Local Boards their intelligence and general education will be of value in discussing the subjects which are usually dealt with by these Boards.

4. I am accordingly to request that these orders may be communicated to all District Officers, Subdivisional Officers, District Boards and municipalities in your Division, and that they may be borne in mind when recommendations for appointment to any of these officers are submitted to Government for approval.

*Ben., Mun., Cir. No. 5M., of 31-1-1901, to Comms.*

I am directed to invite your attention to the provisions of section 57 of the Bengal Municipal Act by which it is laid down that no Commissioner of a municipality shall hold an office of profit under the Commissioners of that municipality. I am to observe that no Assistant

**Surgeon or Civil Hospital Assistant should be nominated for appointment as a Commissioner of a Municipality from which he draws any emoluments. The orders contained in Government Circular No. 4L.S.-G., dated the 27th January 1893, should, so far as they relate to the appointment of Municipal Commissioners, be considered only to apply to cases in which the medical officers in question are pecuniarily independent of the municipalities in which they reside.**

**Superintendents of Post Offices as members of District and Local Boards.**

*Ben., Mun. (L.S.-G.), Nos. 1002-06 L.S.-G., of 14-3-1916, to Comms of Divns.*

I am directed to invite your attention to the accompanying copy of letter No. F. 38-81, dated the 23rd February 1916, and its enclosure, from the Postmaster-General, Bengal and Assam Circle, regarding the appointment of Superintendents of Post Offices as members of District and Local Boards. Government are not in favour of increasing the number of *ex-officio* members, but they do not see any objection to any Superintendent of Post Offices being appointed as a member of a District or Local Board consistently with the last proviso of section 7 of the Bengal Local Self-Government Act, 1885.

**Instructions regarding money-orders presented by District Boards and other local bodies for issue at post offices.**

*Ben., L. S.-G., No. 176-80 T.—L.S.-G., of 14-5-1926, to Comms.*

I am directed to forward a copy of a letter from the Post Master-General, Bengal and Assam Circle, No. F. 36-18, dated the 17th April 1926, regarding money-orders presented by District Boards and other local bodies for issue at post offices and to request that you will be so good as to ask the local bodies in your division to follow the instructions contained in that letter.

*Letter No. F. 36-18, dated the 17th April 1926, from the Post Master-General, Bengal and Assam (Offg.), to the Secretary to the Government of Bengal, Local Self-Government Department.*

I have the honour to say that a serious fraud was committed by a post office official in connection with money orders presented for issue by a District Board with cheques covering the amount of the money orders including commission. With a view to minimise chances of such a fraud, the Director-General of Posts and Telegraphs has decided that cheques received in payment of the value of money orders presented for issue by the District Boards and other local bodies should never be kept out of account by the post offices and that receipts for such money orders should be granted forthwith. When the number of money orders presented for issue is too large for the money orders to be issued and the receipts to be granted forthwith, arrangements should be made with the District Board or other office concerned to receive only as many money orders as can be issued by the post office



in course of the day, and in such cases a cheque to cover the value and commission should be sent by the District Board or other office next morning, when the receipts for the money orders should be handed over to the remitter and the cheque taken into account.

2. I therefore request that necessary instructions may kindly be issued to the District Boards and other local bodies so that they may consult the post offices concerned, when occasion arises, about the amount for which a cheque should be drawn up in favour of the post master.

**District Magistrate empowered to sanction the establishment of cattle pounds by District Boards and Union Boards.**

*Ben., L.S.-G., No. 395-99T.—L.S.-G. of 28-9-1926, to Commsr.*

I am directed to refer to this Department circular Nos. 1254-58 L.S.-G., dated the 8th April 1924, in which you were asked whether, in your opinion, the control of Government under section 4 of the Cattle Trespass Act, 1871, in regard to the establishment of pounds by local authorities, which was delegated to Commissioners of Divisions under paragraph 5 of Government resolution, dated the 23rd October 1889, should be transferred from Commissioners to District Magistrates at least in respect of areas in which Union Boards have been established. The replies received to that circular show that there is a consensus of opinion in favour of such delegation not only in regard to pounds in Union Board areas but also in regard to pounds in non-Union Board areas where the local authority is the District Board. The Governor in Council accepts this recommendation as it will make for administrative convenience and directs that in future the sanction of the District Magistrate will be sufficient for the opening of a new pound either by a District Board or by a Union Board. Where, however, the authority making an application is the District Board and the District Magistrate does not see his way to sanction the proposal, a reference should be made by him to the Commissioner for final orders.

I am to request that District Boards and Union Boards in your division may be informed accordingly. To avoid delay the latter may send applications to the District Magistrate direct.

When a pound is to be established on the borders of his district, the District Magistrate should as a rule consult the Magistrate of the neighbouring district.

**Rent for Government buildings occupied by District Boards and Municipalities.**

*Ben., L.S.-G., Cir. Nos. 3208-12 L.S.-G. of 31-8-1927, to Commsr.*

I am directed to address you on the subject of the proposal to charge rent for Government buildings now occupied rent-free by District Boards and Municipalities.

2. In this department letter No. 7 T.—M., dated 13th October 1893, it was ruled that District Boards were liable to pay rent for

such Government buildings or portions of a building in which accommodation was afforded for their offices. Subsequently, however, this order was cancelled by circular No. 17 L.S.-G., dated 14th June 1895, and in consequence certain District Boards are occupying Government buildings free of rent. The consideration which influenced Government to exempt the District Boards from payment of rent was that these boards were merely departments of Government and not independent bodies. Whatever grounds there may have been in the past for regarding them as Government Departments, District Boards are now to be considered autonomous local authorities subject only to the statutory control of Government in certain matters. There is, therefore, no justification for exempting them from payment of rent for the occupation of Government buildings. The Government of Bengal have, therefore, decided to withdraw the circular of 14th June 1895 with effect from the beginning of the current financial year. At the same time, they consider that as District Boards have been enjoying the privileges of exemption for a long time, it would not be expedient to charge full rent.

3. After careful consideration, therefore, Government are pleased to direct that local bodies should only be charged a nominal rent for Government buildings hitherto occupied by them free of rent, and that in respect of every such occupation they should be required to execute an agreement in the form to be prescribed by Government in the Public Works Department.

The agreement should make it clear that local bodies have no right to occupy the buildings permanently; they should be tenants liable to vacate the buildings on reasonable notice in case Government require them for other purposes, or in case the buildings cease to be used for the purposes for which Government allowed them to be occupied.

I am to request that local bodies in your Division may be informed accordingly.

#### **Procedure to be followed when a local body intends to erect building on Government land.**

*Ben. L. S.-G. letter No. 803 L. S.-G. of 5-3-1929, to Commr., Rayshahi Divn., and Memo. Nos. 806-809 L.S.-G. of 5-3-1929, to other Commrs.*

With reference to your letter No. 4154M., dated the 17th October 1928, I am directed to say that circular Nos. 3208-3212 L. S.-G., dated the 31st August 1927, relates to Government buildings occupied by local bodies and not to Government lands occupied by them. I am, however, to observe that when a local body intends to erect a building on Government land, it should obtain the previous permission of Government through the proper channel and also execute an agreement containing a clause on the lines of rule 173(2) of the Government Estates Manual. Such agreement should also be made, if not previously done, where a local body has already erected a building on Government land. But no rent shall be charged for the building erected by the local body at its own cost, or for the Government land on which the building is erected and which it has already been allowed to occupy, free of rent.

**Claims of the depressed classes to representation on the local bodies.**

*Ben., L.S.-G. Cir. Nos. 1066-1069 L.S.-G. of 10-3-1930, to Comms., Presy., Burdwan, Dacca and Rajshahi Divns.*

With a view to improve representation of the depressed classes on local bodies, the Government of Bengal (Ministry of Local Self-Government) are pleased to direct that the claims of the depressed classes to representation on municipalities, district boards, local boards and union boards, should be taken into account in considering nominations for these bodies in districts in which the number of the depressed classes as recorded in the Census Report constitutes one-fifth of the population.

**Insurance of municipal fund by municipalities against loss.**

*Ben. Munpl. letter No. 163-T.—M. of 6-6-1931, to Commr., Presy., Divn.*

With reference to the correspondence resting with your letter No. 97M., dated the 20th January 1931, about a proposal for effecting an insurance by the Titagarh Municipality against loss of municipal money, as detailed below, I am directed to say that under rule 149 of the Model Municipal Account Rules, the collecting sarkars are liable to furnish securities either in cash or in Government Promissory Notes or in municipal debentures, etc. If in lieu thereof, fidelity guarantees for each of the three collecting sarkars at Rs. 500 are accepted, the collecting sarkars themselves should bear the cost of premia under the above rule—

- (1) Fidelity guarantee for three collecting sarkars at Rs. 500 each.
- (2) Burglary for cash in safe at Rs. 1,500.
- (3) Fire and riot risk for cash, etc., in safe at Rs. 1,500.
- (4) Fidelity guarantee for durwan to bring money from Titagarh to Calcutta and *vice versa* at Rs. 1,500.
- (5) Loss of cash and notes whilst in transit from Titagarh to Calcutta and *vice versa* on Rs. 1,15,400.

2. There is, however, no legal objection to the municipality's effecting an insurance of the municipal fund against burglary, fire, loss in transit, etc., as a charge under section 69(1)(xvii) of the Bengal Municipal Act, 1884, such premia being paid for carrying out the purposes of the Act, among which is the safe keeping of the municipal fund vested in the Commissioners under section 67 of the Act.

**Local Self-Government Policy.**

**Record of good work done by members, District and Local Boards.**

*Ben., Mun. (L.S.-G.), No. 1040 and Cir. No. 14 T.M. of 2-6-1904, to Comms.*

The Government of Bengal directed that the procedure laid down in circular No. G. T.—M., dated the 4th May 1904, on the subject of

the maintenance of a permanent record of good work done by members of Municipal Committees, should be followed in the case of members of District and Local Boards.

### **Local Self-Government policy of the Government of India.**

*India, Edn., Res. No. 41, of 16-5-1918.*

*Declaration of 20th August 1917.*—It was announced in the House of Commons on the 20th of August 1917 that the policy of His Majesty's Government, in respect of the future of this country, was that of increasing the association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire. It was added that progress in this policy could only be achieved by successive stages and that the British Government and the Government of India, on whom the responsibility lay for the welfare and advancement of the Indian peoples, must be the judges of the time and measure of each advance and must be guided by the co-operation received from those upon whom new opportunities of service would thus be conferred and by the extent to which it was found that confidence could be reposed in their sense of responsibility.

2. *Progress to be made in local self-government.*—In commenting on this pronouncement in the Imperial Legislative Council on the 5th of September 1917, His Excellency the Viceroy explained that there were three roads along which an advance should be made towards the goal indicated in the above pronouncement. Of these the first road was in the domain of local self-government, the village or rural board and the town or municipal council. The domain of urban and rural self-government was the great training ground from which political progress and a sense of responsibility have taken their start, and it was felt that the time had come to quicken the advance, to accelerate the rate of progress and thus stimulate the sense of responsibility in the average citizen and to enlarge his experience.

The object of the present Resolution is to indicate the manner in which the Government of India would desire to initiate the progress to be made along this road of local self-government.

3. *The policy of Lord Ripon's government.*—Although the beginnings of local bodies can be traced to an earlier epoch, the course of local self-government, as now understood, was first set out by the government of Lord Ripon more than 30 years ago. A determined effort was made by the Government of India in 1881 to 1884 to implant a system of local self-government in the country and much was said and written on the subject in those years. During and shortly after that period a number of Acts were passed to form the foundation of the new arrangements. There was, however, little enthusiasm about the further development of the system either in official circles or outside and the advance during subsequent years, though not inconsiderable, has on the whole been slow. As might be expected, it has been more rapid in the great towns, but it has lagged behind over the country at large.

*The Decentralization Commission and the Resolution of 1915.*—In 1907-09 the whole field of local self-government came under the consideration of the Decentralization Commission, and that Commission made a number of detailed proposals on the subject almost all of which were in the direction of giving greater scope and freedom to local bodies. These proposals were referred in 1909-10 to local Governments, and a large mass of opinions was received during the ensuing three or four years. The Secretary of State had, meantime, intimated his opinion that the time had come to undertake a general review of the results obtained by the policy of Lord Ripon's government; and the Government of India after an intermediate correspondence with the Secretary of State and local Government complied with this desire by embodying their views on the proposals of the Commission in a comprehensive Resolution on the main problems of local self-government. This Resolution was issued in April 1915. After pointing out the degree of substantial progress that had already been achieved and the signs of vitality and growth that were everywhere apparent, it proceeded to explain the obstacles in the way of realising completely the ideals which had prompted action in the past. The smallness and inelasticity of local revenues, the difficulty of devising further forms of taxation, the indifference still prevailing in many places towards all forms of public life, the continued unwillingness of many gentlemen to submit to the troubles, expense and inconveniences of election, the unfitness of some of those whom these obstacles did not deter, the prevalence of sectarian animosities, the varying character of the municipal area—all these were causes which could not but impede the free and full development of local self-government. The growing demand among the educated classes in towns for greater efficiency involving more direct expert control in matters affecting public health and education was a further influence of a different character; but, while these and similar considerations indicated the need for caution, the Government of India, on the whole, declared themselves unhesitatingly in favour of a general policy of further progress limited only by such conditions as local circumstances might dictate. At the same time, the Resolution emphasized the fact that any attempt to exact uniformity in local administration would be foredoomed to failure, and on a review of all the circumstances, the Government of India decided to accept in almost every case the conclusions of each local Government as to the degree of progress possible at the present time. The Resolution, therefore, while indicating in broad outlines, the ideals which the Government of India had before them, left the local Governments in most respects to move towards these ideals in the manner and at the pace which was considered best fitting to local circumstances. In some provinces—as in the United Provinces, Bengal and Assam—legislation has since been effected or initiated and in others action has been taken in other ways towards securing further progress on the lines suggested by the Commission, but as a rule the statutory provisions for local self-government have remained unchanged since the Resolution of 1915 was issued and no remarkable departure of a general character has been made from the previously existing arrangements.

In their recent correspondence with the Secretary of State on the general subject of constitutional reforms the Government of India have considered afresh the whole subject of local self-government and have laid before the Secretary of State a scheme of expansion suited to the

altered circumstances of the present time. Having received his approval to their recommendations they now desire to intimate the lines upon which they would wish local Governments to move in the direction of more complete local self-government. The Government of India fully recognise that it will not be possible to make all the injunctions formulated below of absolutely uniform application and are, therefore, willing to reserve to the local Governments the power to modify their application in specific cases and for specific reasons; but they expect that in the absence of such specific occasions a substantial advance should now be made on the lines laid down, and from indications received in the course of their recent circumstances with heads of local Governments, they believe that the local Governments, each in its own degree, are also anxious to adopt a forward policy in general conformity with the wishes of the Government of India.

4. *The main principles involved.*—As the whole subject has been so recently dealt with in the Resolution of 1915, the Government of India do not propose to re-state the history or the objects and principles of local self-government in this country at any length. The first and foremost principle which was enunciated in Lord Ripon's Resolution of May 1882 and which has since been emphasized by successive Secretaries of State, is that the object of local self-government is to train the people in the management of their own local affairs and that political education of this sort must, in the main, take precedence of considerations of departmental efficiency. It follows from this that local bodies should be as representative as possible of the people whose affairs they are called on to administer, that their authority in the matters entrusted to them should be real and not nominal, and that they should not be subjected to unnecessary control, but should learn by making mistakes and profiting by them. The general policy, therefore, must be one of the gradual removal of unnecessary Government control and of differentiating the spheres of action appropriate for Government and for local bodies respectively. So far as education is concerned, the views of the Government of India have been already communicated in their circular No. 873 of the 19th September 1916 and the present Resolution will not deal with the educational aspects of the policy. The control of Government over local bodies is at present exercised both from within and from without, and it is mainly by the substitution of outside for inside control and by the reduction of outside control, so far as is compatible with safety, that progress in the desired direction will be achieved. The internal control is capable of relaxation by the introduction of a greater use of election in the selection of members and chairman of boards; and the external control by such means as the removal of unnecessary restrictions in connection with taxation, budgets, the sanction of works and the local establishments.

5. *Internal control: Elective majorities on boards.* In dealing with the election of members to local bodies the Decentralization Commission proposed that municipal boards and rural boards—district and sub-district—should ordinarily have a substantial elective majority, nominated members being limited to a number sufficient to provide for the due representation of minorities and of official experience. In their Resolution of 1915 the Government of India approved this policy as regards municipalities, subject to the proviso that where its success might be doubtful it should be introduced gradually; and as regards rural boards, they observed that local Governments in general

were in sympathy with the Commission's proposal. At present something over a half of the members in municipalities and something under a half in rural boards are elected, and the Government of India are now of opinion that as a general principle the Commission's proposals in favour of a substantial elective majority, both as regards municipalities and as regards rural boards, should be accepted and carried out by the local Governments. Where the members of district boards are elected by the sub-district boards there is no reason to interfere with this arrangement, but the observance of the principle should be enforced as regards the elective element in the membership of the sub-district boards which make the elections for the district boards. As regards the special representation of minorities where this is necessary, the Government of India would prefer that this should be effected by retaining the practice of nomination rather than by introducing some system of communal or proportional representation. But, as regards the special representation of official experience, they consider that this might often be adequately secured by the nomination to the board of men possessed of such experience for purposes of advice or discussion only and without the right of voting. It has been suggested that, apart from the officials who would count as supernumeraries under the above arrangement, the proportion of nominated members on a board should not ordinarily exceed one-fourth; and it will be open to local Governments to adopt a standard of this character, but the Government of India recognise that in the case of boards to which the elective system has not hitherto been applied there may be local opposition to the immediate introduction of election on so extensive a scale and the proportion of nominated members on boards must necessarily vary from place to place. In cases where it is considered advisable to retain the power to nominate to a certain number of posts for the purpose of retaining the services of men who would not stand for election, it should be considered whether a system by which a proportion of the members should be co-opted by the remainder and hold office for a period longer than that ordinarily prescribed would not serve to meet the same object. In one province proposals are now under consideration for dispensing altogether with nomination by (i) omitting the official members in view of the existence of expert servants of the boards, (ii) meeting the case of minorities by communal representation, and (iii) introducing a system of co-opted "aldermen" on the lines above described in order to attract men who will not stand for election. Except so far as it provides for communal representation, a scheme of this character coincides with the principles which the Government of India themselves advocate and, in the cases where the question of communal minorities does not arise, it indicates a line of action which ensures the full exercise of the right of election to local bodies. It should be recognised that by whatever method this may be effected a substantial increase should be secured in the present elective element in local bodies and in view of this contemplated increase, the Government of India desire that district officers should as recommended in paragraph 534 of the Decentralization Commission's Report utilize their district boards more fully than at present for consultation and advice in matters of general concern which lie outside the sphere prescribed for the activities of these boards.

6. *Extension of the franchise.*—In accepting the proposals of the Decentralization Commission with regard to the provision of a substantial elected majority on local bodies, the Government of India desire to

add the important corollary that the franchise for such election should be sufficiently low to obtain constituencies which will be really representative of the body of the rate-payers. So far as information is at present available, it would appear that the average electorate in municipalities in India represents some 6 per cent. of the population and the electorate in district boards some 16 per cent. It is recognised that a full elective system analogous to that which obtains in the West (such as the municipal franchise in England which is understood to include some 16 per cent. of the population concerned) cannot be immediately or universally applied, but it should be regarded as the end to be kept in view and worked up to. The relation of the electorate for local bodies to that which may hereafter be provided for purposes of elections to the provincial legislatures is a matter which will have to be taken up separately; but several local Governments have already under consideration an extension of the existing franchise for rural boards and where such extensions can be made without recourse to special legislation, there is no objection to their being carried out at once if the local Governments concerned are of opinion that this can be done without inconvenience. As enlarged franchise is in any case an essential condition of an extension of the elected element on boards and it should be understood that the increase in the elective element on local bodies must, if it is to be of value, be accompanied sooner or later by a substantial extension of a franchise upon which that election is based.

7. *Elected chairmen in municipalities.*—In dealing with the appointment of chairmen in municipalities the Decentralization Commission desired that the municipal chairmen should ordinarily be elected non-officials, that Government officers should not be allowed to stand for election and that if a nominated chairman was required, an official should be selected. The Government of India in their Resolution of 1915 accepted this view, subject to the qualification that in special cases in which it was necessary to nominate the chairman (election being the ordinary method) discretion should be reserved to local Governments to nominate non-officials as well as officials, and subject also to the further conditions that although boards should not be absolutely prohibited from electing officials, the election of an official should be a special matter requiring confirmation by the Commissioner or by some higher authority. It may be roughly laid down that at the present time one-third of the chairmen in municipalities in India are nominated officials, one-third are elected officials and one-third are elected non-officials, but certain local Governments have latterly evinced a desire to increase the proportion of elected non-official chairmen within their respective areas. The Government of India accept the proposals of the Decentralization Commission as qualified by the Resolution of 1915 on the understanding that when an official is elected to be a chairman the election should be by a majority of the non-official votes. In certain provinces, such as Burma and the United Provinces, it is already the ordinary practice for municipalities to elect their chairmen. In others, as in Bihar and Orissa and the Punjab, efforts have been made of recent years, but have not always met with the consent of the municipalities concerned, to increase the number of elected chairmen. In others, as in Bengal and Bombay, the principle of election has in practice been extended and further extensions have been seriously considered. The Government of India trust that the principles which they have laid down above will commend themselves to local Governments and they hope that under the arrangement now prescribed there will be a general replacement of



nominated official chairmen of municipalities by elected non-officials, though municipalities should be able to elect an official as chairman, or if they so desire, to ask the Government to nominate a chairman.

8. *System in large cities.*—The Decentralization Commission, however, indicated that in the larger cities it would be desirable to adopt the practice which has been worked with success in the city of Bombay. In order that the large amount of every day administration necessary should be efficiently carried on, this administration in Bombay is placed under a special nominated Commissioner, who is, however, subject to the general control of the corporation and of its standing committee. This proposal was commended in the Resolution of 1915, and it appears to the Government of India to be worthy of consideration. So long as the executive officer of a city is protected from the possible caprices of a board by provisos requiring that, though his nomination may be by the board his appointment should be approved by Government and that he should not be removed without the sanction of the Government unless by the vote of a substantial majority of the board, it is not necessary to require that the executive officer should be a Government official, and competent men can be appointed to the post who have not been or no longer are in Government service. A system of executive officers on the above general lines has been rendered possible in the cities of the Bombay Presidency by legislation passed in 1914, and in the United Provinces by the United Provinces Municipalities Act of 1916; while a similar system is contemplated by the legislation now under consideration for the Corporations of Calcutta and Madras.

9. *Elected chairmen in rural boards.*—As regards rural boards the Decentralization Commission found that in practice the Collector was nearly always the president of the district board either *ex-officio* or by nomination or by election, and that the sub-district boards were also, as a rule, presided over by official subordinates of the Collector. They recommended that the Collector should remain as president of the district board as it was undesirable to dissociate him from the interests of the district and it was important to utilise his administrative experience. They differentiated the circumstances of rural boards from those of municipalities in that the latter are less connected with general district administration, that they had reached a higher level of political education and that their jurisdictional area was much smaller and more compact. For these reasons, they held that it was desirable that the presidency of rural boards should continue to vest in the Collector and his assistants, but they added that the vice-presidents should, in each case, be elected non-officials. The Government of India in their Resolution of 1915 accepted the view of the Commission above cited. They added, however, that they would have no objection to non-official chairmen being retained, where they already existed, or freshly appointed where a local Government desired to make the experiment. From statistics provided in 1916 it would appear that at that time out of 191 district boards only 13 had non-official presidents (elected), all but one of these being in the Central Provinces; and as regards sub-district boards, out of a total of 525, the chairmanship of 41, mostly in Bengal, was held by elected non-officials and of 20, nearly all in Madras, by nominated non-officials. Since these figures were collected, however, fresh experiments have been made, more especially in Bengal and Bombay, to extend the principle of elected non-official chairmen; and other provinces also have evinced their desire to move in this direction.

The circumstances of district boards of large subdivisinal boards, such as those in Madras, are materially different from those of municipalities, since they need much more time and widely extended travelling on the part of the head of the board if the work is to be satisfactorily carried out. The Government of India would urge provincial Governments to arrange for the election of chairmen, wherever this is possible, and where this is not possible to encourage the appointment of non-official chairmen. When the chairman is a non-official, however, they think it essential in regard to district boards and to such sub-district boards as deal with large areas that, as in the case of large cities, the ordinary official work should be largely in the hands of a special executive officer, whose appointment should require the approval of the Government and who should not be removed in ordinary circumstances without Government sanction. If such a board, wishing to save the expense of a special officer, or desirous of remaining under the presidency of the Collector or of one of his assistants, should wish to elect such an official as chairman, the Government of India think that its wishes might be acceded to, subject to the condition that the election should be made by the non-official members of the board and that it should be a special matter requiring confirmation by the Commissioner or some higher authority.

10. *Extent control: Powers of taxation in municipalities.*—In the above paragraphs the views of the Government of India have been expressed in favour of a liberalization of the constitution of local bodies and the consequent substantial reduction of what is ordinarily termed the "internal control" of local bodies by the Government. Turning to the other aspect of the case, namely, the possible reduction of external Government control, they would first deal with the matter of local taxation. Under this head the Decentralization Commission were of opinion that municipalities should have full liberty to impose or alter taxation within the limits laid down by the municipal laws, but that the sanction of an outside authority to any increase in taxation should be required where the law did not prescribe a maximum rate. The Government of India in their Resolution of 1915 expressed a general sympathy with the Commission's recommendations. They thought, however, that power to vary any tax might be reserved by such local Governments as were unable to accept in full the recommendations of the Commission, and that in the case of indebted municipalities the previous sanction of higher authorities should be required to any alteration of taxation. The suggested proviso that local Governments should have power to vary any tax is one that practically renders the general principle nugatory as it enables local Governments to decline to act upon it and the Government of India consider that this proviso should now be given up in the case of boards which contain substantial elected majorities. The further proviso with regard to indebted municipalities is undoubtedly sound in cases where the Government has lent money to a municipality or guaranteed repayment of its loans and in that case the sanction of Government should obviously be required to any alteration in taxation which might reduce the municipality's resources. Subject to this proviso, the Government of India consider it most important that municipal boards should be allowed to vary taxation in the manner proposed by the Commission. In cases where the constituencies are (as the Government of India consider it essential that they should be) so organized as to be really representative of the body of the rate-payers a municipal board which abuses its powers of taxation will be open to

correction by its own constituents and, as will be observed from the remarks made in paragraph 17 below, it is proposed that in cases of grave abuse, the Government should retain special powers of intervention.

11. *Powers of taxation in rural boards.*—The bulk of the income of rural boards is derived from a cess levied upon agricultural land over and above the land revenue and not usually exceeding 1 anna in the rupee, or 6½ per cent. on the rent value or on the land revenue according to the circumstances of the province. Subject to an exception in favour of railway construction, the Decentralization Commission held that district boards should not be empowered to raise the land cess beyond the abovementioned limits. They represented that the policy of the Government was in favour of lightening the burden on land, that district boards were not fully representative, and that changes in the rate of cess would lead to misunderstanding and fraud. They accordingly declined to recommend the grant of unlimited powers of taxation to rural boards, but thought that they should have power to raise the ordinary land cess up to a rate of 1 anna in the rupee on rental value and to levy rates and fees at their discretion within the limits laid down in the various Acts, the sanction of the Commissioner being required for proposed changes in the rates where no limits had been laid down by the law. In their Resolution of 1915 the Government of India observed that under present conditions any proposal to raise the limit imposed by the existing law would require the previous sanction of the Government of India, that such proposals would need the most careful consideration on their merits and that the Government of India did not consider it necessary for the present to make any pronouncement on the subject. Under the general principle indicated above in respect of municipalities, the Government of India would now accept a somewhat similar position. Where no limit has been imposed by the law on the rate of the cess, a change in the rate at which the cess is levied will need the sanction of outside authority; but where a limit is imposed, either by existing or by future legislation, a rural board will be at liberty to vary the rate at which the cess is levied within the limits imposed by law without the interference of outside authority.

12. *The control of services paid for by local bodies.*—The Commission proposed that, if a municipal or rural board had to pay for a service, it should control it; and that, where it was expedient that the control should be largely in the hands of Government, the service should be a provincial one. The Government of India, though not prepared to accept the proposal in full, declared in their Resolution of 1915 that they approved of it in a somewhat modified form. They considered that charges should be remitted in cases where a local body contributed to Government for services inherent in the duty of supervision and control by Government officers or services which could not expediently be performed except by Government agency. For example, Government might properly cease to charge for clerical establishments in the offices of supervision and control or for the collection of district cesses which it was clearly expedient to realise along with the Government revenue. The Government of India are now of opinion that in this matter it would be well to go the whole way with the Commission, in accordance with the general principle that if local bodies have to raise funds for any particular object they should have the control of these

funds. If a board is to provide, for instance, for civil works or medical relief, it ought, subject to such general principles as the Government may prescribe, to have real control over the funds thus provided, and should not be under the constant dictation of Government departments in matters of detail.

13. *The budgets of local bodies.*—Commenting on the minute control exercised in some provinces over municipal finances, the Decentralization Commission recommended that municipalities should have a free hand with regard to their budgets. The only check required should, in their opinion, be the maintenance of a minimum standing balance to be prescribed by the local Governments. They acknowledged that relaxation in control might lead to mismanagement but they were of opinion that municipal bodies could attain adequate financial responsibility only by the exercise of such powers and by having to bear the consequences of their errors. Further check would be provided by the control which local Governments would exercise over loans and by the power which should be reserved to compel a municipality to discharge its duties in cases of default. In dealing with these proposals in their Resolution of 1915 the Government of India, while introducing exceptions suggested by various local Governments, declared that, though they would accept these reservations for the present, they nevertheless regarded the recommendations of the Commission as expressing a policy to be steadily kept in view and gradually realised. The Government of India now desire that local Governments should make every effort to attain the full realisation of the recommendations in question as soon as possible.

A similar recommendation was made by the Decentralization Commission in respect of rural boards, and the Government of India in their Resolution of 1915 considered that the present restrictions on the powers of these boards with regard to the general principle of budget expenditure should be gradually relaxed with due regard to local conditions and requirements; the fact that an official would almost invariably be the chairman and that powers of inspection and control were retained by Government being sufficient safeguard against gross mismanagement. In this case, as in that of municipalities, the Government of India desire that the recommendations of the Commission should be realised as soon as possible subject only, as in the case of municipalities, to control in the case of rural boards which are indebted to Government and in cases of gross default.

14. *Specification of income and earmarking of grants.*—The Government of India would similarly endorse the recommendation made in the Decentralization Commission's Report that the system of requiring local bodies to devote fixed portions of their revenues to particular objects of expenditure should be done away with as unduly limiting their freedom of action, subject, as indicated by the Commission, to outside intervention in cases of grave neglect or disregard. If the Government give a grant for a particular object, the money must, of course, be applied thereto, but the Government of India endorse the Commission's recommendation that grants-in-aid should normally take the form of a lump grant or a percentage contribution towards specific services rather than be more definitely earmarked. If, again, funds have been raised locally for particular objects, they must necessarily be applied

to those objects; but otherwise the general principle laid down by the Commission is one which the Government of India would wish to see ordinarily observed.

15. *Sanction for works.*—The Decentralization Commission further proposed that the existing restrictions on municipalities which require outside sanction for works estimated to cost more than a certain amount should be removed, but that Government should scrutinize and sanction estimates of projects to be carried out from the loan funds. In their Resolution of 1915 the Government of India observed that the majority of the local Governments were prepared to relax the existing rules in the direction of giving more freedom to municipal boards, and the Government of India expressed themselves in favour of extended freedom subject, where necessary, to proper precautions against extravagant and ill-considered projects. With reference to a similar recommendation made by the Decentralization Commission in respect of rural boards the Government of India in their Resolution expressed their opinion that the grant to rural boards of full powers in the allotment of funds and in the passing of estimates could not for the present at least be conceded, but the extent of the necessary financial control might depend in the case of rural boards on the competence of the staff employed, and where this varied it would not be desirable to lay down hard and fast rules for the whole of a province. The Government of India still adhere to the views expressed by them in 1915, but they desire to go somewhat beyond the general pronouncement then made and would ask for a definite indication on the part of local Governments that, allowing for the necessarily different circumstances of different boards, there will now be made a material advance in the direction of the proposal made by the Decentralization Commission. It may be found convenient to arrange for this advance by a classification of bodies according to the character of their local technical staff, and to divide them into three or more classes according as sanction is not required, or is required in the case of works whose cost is calculated to exceed certain specified figures.

16. *Establishments of local bodies.*—It was also recommended by the Decentralization Commission that the degrees of outside control over municipal establishments should be relaxed, but that the appointments of municipal secretaries or other chief executive officers or engineers and health officers, where these existed, should require the sanction of the local Government in the case of cities and of the Commissioner elsewhere, and that the same sanction should be required for any alteration in the emoluments of these posts and for the appointment and dismissal of the occupants. As regards other appointments, the Commission proposed that the local Government should lay down for municipal boards general rules in respect to such matters as leave, acting and travelling allowances, pensions or provident funds and maximum salaries, and that their sanction should be required for any deviation therefrom. The system recommended by the Commission is already substantially in force in Bombay, and almost all the local Governments expressed their willingness to relax outside control over the appointment of the staff employed by local bodies. The Government of India are now of opinion that steps should be taken to carry out into practice the general recommendations of the Commission in respect of municipalities; and that as regards rural boards, for which the Commission made similar recommendations, similar action should be taken. They consider, moreover, that the requirement of Government sanction to

the appointment and dismissal of the special officers abovementioned may properly be accompanied by the right on the part of Government to require their dismissal in cases of proved incompetency.

17. *Outside powers of intervention.*—In addition to the specific forms of outside control to which reference has above been made, the existing legislation confers certain special powers of intervention on the part of Government officers. The Decentralization Commission were of opinion that the Collector should retain certain powers given under the existing Acts, such as the power to suspend in certain cases the operation of municipal resolutions and that the Commissioner should be able to require municipality, which had neglected a particular service, to take such action as he might consider necessary. The local Governments generally, and the Government of India in 1915, were of opinion that special powers of outside control were necessary and should continue. The Commission also recommended that the special powers of control over rural boards vested in outside authorities under the existing Acts should continue, and the local Governments in general and the Government of India accepted this view.

It is certainly necessary to maintain such ultimate powers of intervention in paragraph 17 of the Government of India's Resolution of the 17th of May 1882, that the control of Government over local bodies should be exercised from without rather than from within, and that the Government instead of dictating the acts of local bodies should revise and check them. In view of the relaxations which are contemplated in respect of the powers of external control exercised by Government in respect of taxation, budgets, public works and local establishments, it might be expected that the powers of Government officers in respect of external intervention should, if altered at all, be altered in the direction of greater stringency. In consequence of the increasing demand for sanitary improvements, it may indeed be necessary to provide a special agency for enforcing modern requirements in the matter of sanitation, and to provide that agency with adequate powers, and this is a matter upon which the Government of India will, if necessary, address local Governments separately at a later date. It is moreover possible that very important changes may be necessary hereafter in the procedure and organisation of public works establishments as a consequence of the inquiries recently made by the Public Works Department Reorganisation Committee whose report is at present under the consideration of the Government of India. But, as has been already remarked at the outset of this Resolution, the general principle before the Government of India is that, except in cases of really grave mismanagement, local bodies should be permitted to make mistakes and learn by them rather than be subjected to interference either from within or from outside. The Government of India do not therefore, with the possible exceptions above noted, suggest the addition of any substantial powers of intervention on the part of Government officers, and they trust that in the exercise of such powers as the law allows the principle which has above been referred to may be borne in mind. They would further suggest that penal action from outside might in some cases be dispensed with if the Government took power to itself to dissolve a municipal council or rural board and require a fresh election before making use of the more drastic powers conferred upon it by the legislature.

18. *Central control.*—As regards the agency through which the outside control of Government should be exercised the proposal has

from time to time been put forward that the main powers of control should be concentrated in the hands of a central board at provincial headquarters working under Government and invested with powers of compulsion similar to those enjoyed by the Local Government Board in England. A proposal to constitute a board of this character was put forward for Bengal in 1882 and was negatived by the Secretary of State. It was again examined by the Decentralization Commission and rejected by them in 1909. The local Governments concurred in the conclusions of the Commission and the Government of India, in their Resolution of 1915, vetoed the scheme as not only unnecessary but tending also to perpetuate the very centralization in local affairs which it is the object of Government to diminish. The Government of India recognise that the powers of Collectors and Commissioners should be maintained but they would suggest for the consideration of the provincial Governments the constitution of a central body which should co-ordinate the experience of the local bodies and provide improved control and guidance by entertaining further expert inspecting establishments, if necessary. Such a central body should be in direct touch with the Government and might fitly be presided over by a member of the Executive Council where such exists. It should further be considered whether in place of a formal board there might not be a Standing Committee for local and municipal affairs in direct contact with the Government, to be largely drawn from elected members of the Legislative Council.

19. *Notified areas, etc.*—In the above paragraphs the Government of India have indicated a few of the main principles which they consider should be borne in mind in the future relations of Government to the local bodies ordinarily known as municipalities and district or sub-district boards. They do not consider it necessary to lay down any general principle in regard to embryonic municipalities whether these be styled "notified areas," or "village unions" as in Madras, or "town panchayats" as suggested by the Decentralization Commission. Many of the bodies dealing with these areas will in due course develop into municipal councils, but until they are fit for this stage they must obviously be subjected to greater control and be less non-official in character. It might often be undesirable, for instance, that the chairman should be a non-official. The development of these bodies is left to the discretion of local Governments subject merely to the general instruction that they should be allowed as full authority as is possible and their powers should be gradually enhanced.

20. *Village panchayats.*—The policy initiated by the Resolution of Lord Ripon's government related solely to the machinery of local self-government as represented by municipal or sub-district boards, but reference has, from time to time, been made during subsequent years to the possibility of providing some organization for the development of village life and this aspect of the question was brought into special prominence by the Decentralization Commission of 1909. A special section of their report was devoted by that Commission to the question of village panchayats and the Commission indicated the principles upon which such panchayats should, in their opinion, be instituted. As, however, there is some misapprehension as to the nature of the recommendations of the Commission, it is advisable to bear in mind the crucial point that in their proposals in this respect, the Decentralization Commission were not contemplating an additional machine for the promotion of local self-government in the sense in which that term is used

in the Resolution of Lord Ripon's government and in subsequent official literature but desired to develop the corporate life of the individual villages and to give the villagers an interest in, and some control over, local village affairs. Consequently, they made a clear distinction between the panchayat organization which they recommended and artificial agglomerations, such as the Madras local fund unions, the chaukidari unions in Bengal and the sanitary committees to be found in the United Provinces, Bombay and the Central Provinces. These artificial organizations may be found useful as an adjunct to local self-government in the sense in which that word is used in the Resolution of 1882 by affording smaller administrative areas in that connection than those administered by municipal or sub-district boards; but such organizations are quite unconnected with the development of individual village corporate life. The Decentralization Commission have pointed out that the common traditions of the village, the fact that the inhabitants are legally connected by ties of blood and caste and by many interests in common and the measure of corporate life still existing in Indian villages which is shown occasionally by voluntary taxation for special purposes warrant the action recommended by the Commission for the organization of panchayats. The Government of India consider that the distinction drawn by the Commission is a real one and that in dealing with the principles governing general proposals in respect of panchayats attention should be confined either to individual villages or to villages which are so closely connected that their people habitually act together.

21. *Proposals of the Decentralization Commission in respect of village panchayats.* The Decentralization Commission recognised, however, very clearly that the different character of the villages not merely in different provinces but in a single province and even within the parts of a province would necessitate caution in taking up the policy of developing panchayats and the Government of India while recognising the necessity of making some effort in the direction of developing village government are constrained to emphasize the note of caution sounded by the Commission. Similarly, while the Commission indicated certain general functions and powers which might be allotted to panchayats, they were careful to explain that there should be no question of developing these on any uniform system. They contended that functions must be gradually and cautiously assigned and must vary with the circumstances of the locality and the manner in which the panchayat discharges the duties first placed upon it. They recommended that the panchayats should be placed under the district authorities, and, if possible, under special assistants, that they should be confined, as a rule, to one village, and that the members should be informally selected, the headman being ordinarily *ex-officio* chairman. They proposed that to these panchayats should be attached civil and criminal jurisdiction in petty cases but that the courts might be given special revisional jurisdiction in cases where there appeared to be some grave miscarriage of justice. The administrative functions of the panchayats were to include sanitation and education and the power of taxation being likely to lead to unpopularity was not to be conferred, but the panchayats was to obtain part of the land cess and grants from sub-district boards of Collectors together with small fees, etc.

22. *Views expressed in the Resolution of 1915.*—With the general line of the Commission's proposals the Government of India in their Resolution of 1915 expressed their concurrence, and in leaving the



matter in the hands of local Governments they suggested the following general principles as indicating the lines on which advance was most likely to be successful:—

- (i) The experiments should be made in selected villages or areas larger than a village, where the people in general agree.
- (ii) Legislation, where necessary, should be permissive and general. The powers and duties of panchayats, whether administrative or judicial, need not and, indeed, should not, be identical in every village.
- (iii) In areas where it is considered desirable to confer judicial as well as administrative functions upon panchayats the same body should exercise both functions.
- (iv) Existing village administrative committees, such as village sanitation and education committees, should be merged in the village panchayats where these are established.
- (v) The jurisdiction of panchayats in judicial cases should ordinarily be permissive, but in order to provide inducement to litigants, reasonable facilities might be allowed to persons wishing to have their cases decided by panchayats. For instance, court fees, if levied, should be small, technicalities in procedure should be avoided and possibly a speedier execution of decrees permitted.
- (vi) Powers of permissive taxation may be conferred on panchayats, where desired, subject to the control of the local Government, but the development of the panchayat system should not be prejudiced by an excessive association with taxation.
- (vii) The relations of panchayats on the administrative side with other administrative bodies should be clearly defined. If they are financed by district or sub-district boards, there can be no objection to some supervision by such boards.

23. *Modifications now suggested in the above views.*—The development of the panchayat system has since attracted considerable attention in several provinces and legislation has been introduced in Assam for the purpose of instituting a system of this kind, while a special committee has investigated and reported on the subject in the United Provinces. The Government of India desire that the matter should be further pursued and with the exceptions noted below they concur in the views expressed in the Resolution of 1915. They would, however, modify the first of the principles suggested in that Resolution by saying that the area under a panchayat should normally be a village unless, as above stated, villages are so closely connected that they may be treated as one. The Government of India would further omit the seventh of the principles quoted above on the ground that at the present stage it is not desirable to make any rigid classification of the connection of panchayats with other administrative bodies from which indeed they should be kept apart as much as possible, while the way in which they do their work should be tested by inspections by the administrative district staff. At the outset, moreover, such control as is necessary in the way of replacing incompetent panchayats or members of panchayats, should be exercised by the local revenue officers provided that these be of a grade higher than that of Tahsildar.

As regards the constitution of the panchayat, the points to which the Government of India attach most importance are the association of the principal village officers with the panchayats and an informal election of the other members by the villagers themselves. They would, however, allow the panchayat to choose its own president and would not render it obligatory that the president should be the village headman as suggested by the Decentralization Commission. Of the possible functions to be assigned to panchayats the most important are, in their opinion, village sanitation and village education (in the directions indicated in paragraph 712 of the Decentralization Commission's Report) and jurisdiction in petty civil and criminal cases. With reference to this last class of functions, it is especially desirable that the panchayat should be, as a rule, a body representing a single village, otherwise the great safeguard for the proper disposal of such cases, namely, local public opinion will be lost. It should also be permissible, though not as the Commission suggested universally necessary, that the panchayat should receive some portion of the land cess raised in their villages. The Government of India are also prepared, differing herein from the opinion of the Decentralization Commission, to allow to the panchayats voluntary powers of supplementary taxation, the proceeds of which would be devoted to the special purpose or purposes for which the tax was levied.

24. *Exceptions and alternatives.*—Where it is decided to call these panchayats into existence, the legislation entailed should be as simple and elastic as possible with the fullest scope for details. These may be left to rules which will be gradually evolved and be improved by experience. The Government of India, however, recognise the impossibility of any universal enforcement of a system of panchayats by reason of the different circumstances prevailing in different tracts, in some of which indeed there are no regular villages at all. It is essential, however, that an effective beginning should be made, where possible; and, if the Government of any province, where there is still some real village life, should think that these recommendations are unsuited to local circumstances, it will be open to such a Government to put forward alternative proposals. It is not, for instance, intended to prevent in any way the establishment of unions or circles for local self-government purposes. As observed above, such unions or circles may be a very useful adjunct to district and sub-district boards relieving them of duties which can be better discharged by committees dealing with smaller areas and such bodies would be especially useful and desirable in tracts in which it is found impossible or premature to establish a village panchayat system.

25. *Action now required.*—It will probably be found on examination that a large part of the suggestions put forward in this Resolution can be brought into effect without any change in the existing legislation and so far as this can be done, action should be taken without further delay. In some provinces, as in Madras, the amendment of the existing law is already in contemplation. In others, as in the United Provinces and Assam, there has been recent legislation which to a large extent meets the necessities of the present Resolution and it will be for the local Governments in such provinces to determine whether fresh legislation will be necessary at the present time to meet the requirements now suggested. The development of a village

panchayat system, where this is undertaken, should in any case be secured by separate legislation unconnected with the Acts relating to municipal and rural boards.

It is hoped that by the adoption of the policy indicated in this Resolution a substantial advance may be made in the direction of a more developed and more liberal form of local self-government. It is probably in the sphere of local self-government more than in any other that the changes which are now being effected in India will touch the great mass of the population. If the local administration is freed in the manner proposed from undue official guidance, a vast number of persons should feel themselves for the first time placed in effective control of the matters which affect their every day life and the local bodies will be invested with opportunities not hitherto enjoyed by them of improving the conditions of the populations entrusted to their charge. The duties of local bodies cover most of the activities upon which the essential welfare of the country depends. They have the care of the public health and all the circumstances upon which that health depends: they control elementary education: they construct and maintain local buildings and communications and they touch the life and convenience of the people at every point. In the development of their interests and the extension of their responsibilities the self-government of the country will secure a very real and important advance and it is on the increased experience to be gained in the administration of local civic affairs that the country must to a large degree rely for the expansion of its self-dependence in the sphere of central government.

**ORDER.**—Ordered, that a copy of the above Resolution be forwarded for information to the local Governments and Administrations, the Departments of the Government of India, the Director-General, Indian Medical Service, and the Sanitary Commissioner with the Government of India:—

Ordered, also, that the Resolution be published in the Supplement to the Gazette of India.

## Maps.

### Maps of municipalities.

*Ben., Munl., Cir. No. 14 M. of 8-3-1895, to Commrs.*

It is understood that many of the municipalities in these provinces have, on the advice of the Sanitary Commissioner, Bengal, provided themselves with maps of the area within their jurisdiction. I am to request that you will be so good as to obtain from each municipality in your Division, a copy of its map, if prepared, and forward the same to this office for record.

2. The utility of these maps needs no explanation, and if in any municipality they have not yet been prepared, the Commissioners should be invited to take steps in this direction as soon as funds are available. Section 223A of the Act provides the necessary authority. I am to suggest that 32 inches to a mile would be a suitable scale to adopt, but in every case the District Officer should be consulted as to the scale to be adopted and the arrangements to be made.

*Ben., Munl., Nos. 188-93 T.M. of 18-6-1895, to Commrs.*

I am directed to invite attention to the Government Circular,\* and to request that you will be so good as to obtain from each municipality in your Division a copy of its map, if prepared, and to forward the same to Government for record. I am to request that Magistrates of districts in your Divisions may be instructed to bring these maps up to date, and to render them more useful for practical purposes by showing in colours the municipal boundary, the different wards, streets with their names, public buildings, including the court houses, municipal offices, dispensaries, police-stations, markets, slaughter-houses, latrines, trenching and burial grounds, and similar particulars, a table of reference being also given in the margin. The direction of the drainage and the sources from which the water-supply of the town is drawn should also be indicated, if possible.

## Model Bye-laws.

### I.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for the purposes mentioned in clauses (i), (ii) and (v) of sub-section (1) of section 370.*

*Ben., Munl., Cir. Nos. 5569-5573 M. of 4-12-1934, to Commrs.*

I am directed to forward herewith 6 sets of model by-laws framed under clause (a) of section 375 of the Bengal Municipal Act, 1932, regulating the conduct of business in places used for the purposes mentioned in section 370 for circulation to the municipal commissioners in your division for their guidance, and to request that whenever the by-laws proposed to be adopted by the commissioners of any municipality differ materially from these model by-laws on any point, the reason for the variation may be explained when those by-laws are submitted to Government for confirmation under section 506 of the Act.

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*Memo. No. 5574 M. of the 4th December 1934.*

Copy forwarded to the Revenue Department of this Government for information.

### I.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for the purposes mentioned in clauses (i), (ii) and (v) of sub-section (1) of section 370.*

1. The licensee shall connect all drains in the place licensed under section 370 intended for the discharge of foul water with a municipal sewer, and the licensee shall not allow any foul water or refuse matter

from such place to be discharged into a river or channel or any other reservoir of water intended for bathing, drinking or any other domestic purpose.

2. Where there is no sewer, the licensee shall collect the waste water from a place licensed under section 370 in properly constructed cesspools. Such cesspools shall be periodically cleansed or treated by the licensee in such a way as to render them inoffensive by activated sludge process or the contents thereof shall be otherwise disposed of in such manner as may be required by the Sanitary Inspector, Health Officer, or Chairman.

3. The licensee shall arrange for sufficient supply of water for cleansing the place licensed under section 370.

4. The licensee shall not cause or suffer any skin or hide which by reason of decomposition has become useless for the purpose of leather dressing, to be kept for a longer time than may be necessary in any part of the place licensed under section 370.

5. The licensee shall, at the close of every working day, cause every floor or pavement in the place licensed under section 370 to be thoroughly swept and washed. He shall, at the same time, cause all filth or refuse deposited on the floor or pavement of such place to be collected in suitable vessels receptacles furnished with closely fitting covers and to be forthwith removed therein from the place.

6. The licensee shall cause the supply of water in every tank or other receptacle used upon the place licensed under section 370 for the washing or soaking of any skin or hide and not being a liming pit to be renewed as often as may be necessary to prevent the emission of noxious or injurious effluvia from the contents of the tank or other receptacles.

He shall cause every such tank or other receptacle to be furnished with a suitable cover and to be kept covered unless it is required to be kept open.

He shall cause every part of the tank or other receptacle, when emptied, to be thoroughly cleansed and shall cause all filth which has been removed therefrom to be forthwith conveyed from the place licensed under section 370 in suitable vessels or receptacles furnished with closely fitting covers, for disposal in a manner approved by the Commissioners.

7. The licensee shall cause all waste lime which has been taken out of any pit upon the place licensed under section 370 to be forthwith deposited in suitable vessels or receptacles or in a properly constructed cart of carriage which, when filled or loaded, shall be covered in such a manner as to prevent the emission of noxious or injurious effluvia from the contents thereof, and shall with all reasonable despatch be removed from the said place for deposit in a place fixed by the Commissioners or disposal in a manner approved by the Commissioners.

8. The licensee shall cause every beam, table, bench, knife, hammer or other implement of apparatus used upon the place licensed under section 370 for the purpose of unhairing, fleshing, breaking, scraping, rounding, scudding or stocking any hide, butt or pelt or in any other process of his trade, to be cleansed from time to time as often as may be necessary to prevent any accumulation of filth upon the beam, table, bench, knife, hammer, implement, or apparatus.

9. The licensee shall cause all filth which has been splashed upon any part of the internal surface of any wall of any building upon the place licensed under section 370 to be removed by scraping or by some other effectual means of cleansing at least twice in every year, that is to say, at least once during each of the periods between the first and twenty-first day of March and the first and twenty-first day of September. He shall at the same time cause every part of the internal surface above the floor or pavement of the building to be thoroughly washed with hot linewash:

Provided (i) that the foregoing requirements as to linewashing shall not apply to any part of the internal surface of any building which is painted or covered with impervious material and may be otherwise properly cleansed and (ii) that this by-law shall not apply to any part of any such building which is used only for the storage of dry leather.

10. The licensee shall cause any part of the internal surface of the walls of any building and every floor or pavement upon the place licensed under section 370 to be kept at all times in good order and repair so as to prevent the absorption therein of any liquid filth or refuse or any noxious or injurious matter which may be splashed or may fall or be deposited thereon.

11. The licensee shall cause every part of the interior and exterior of every tub or other vessel or receptacle used upon the place licensed under section 370 to hold a solution of the material known as "puer" to be thoroughly cleansed by scrubbing or by some other effectual means once at least in every week.

12. In a place licensed under section 370 in which the fleshing meat is dried for subsequent sale for the manufacture of such articles as glue or jujubes, the licensee shall cover the drying area by wire netting so as to prevent carrion birds from carrying away the material and dropping it in the vicinity of inhabited areas.

13. A breach of any of the provisions of by-laws 1 to 12 shall be punishable with fine which may extend to fifty rupees and when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the date of first conviction during which the offender is proved to have persisted in the offence.

#### 11.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for the purposes mentioned in clauses (ii), (iv), (vi) and (vii) of sub-section (1) of section 370.*

1. The licensee shall not use or allow to be used any portion of a place licensed under section 370, for residential or sleeping purposes, nor shall use or allow to be used any room within a building in such place as a living or sleeping room, unless it is separated from the remaining portion of the said place by a substantial wall and contains a window opening directly to the sky and of dimensions not less than one-tenth of the superficial area of the room.

2. The licensee shall not employ any person suffering from any contagious or infectious disease at the place licensed under section 370.

3. The licensee shall store all materials which have been received on the place licensed under section 370 and which are not required for immediate use in the trade in such a manner and in such a condition as to prevent the emission of noxious or injurious effluvia therefrom.

4. The licensee shall thoroughly cleanse and wash at the close of every working day all floors or pavements in the place licensed under section 370 and shall collect all fragments of gut or other matters detached in the process of scraping and all garbage, filth or other offensive matter and place them in suitable vessels or receptacles to be forthwith removed with their covers affixed from the said place to a safe place of disposal appointed by the Commissioners or to be disposed of in a manner approved by the Commissioners. Each such vessel shall be constructed of galvanised iron or of some other non-absorbent material and furnish with a closely fitted cover and shall contain a sufficient solution.

5. The licensee shall at the close of every working day thoroughly cleanse with water containing a deodorant every bench, table, tub, vessel, utensil or implement which has been in use during the day in the place licensed under section 370.

6. The licensee shall at the close of every working day remove by scraping or other effectual means all filth or refuse which has been splashed upon any inside portion of the place licensed under section 370.

7. The licensee shall keep every vessel or receptacle in a place licensed under section 370 thoroughly clean even when such vessel or receptacle is not in use.

8. The licensee shall adopt the best practicable means for rendering innocuous all gas or vapour emitted during any trade process either from the articles operated upon or from the contents of any cask, tank, vat, pan, trough or other receptacle upon the place licensed under section 370.

9. The licensee shall thoroughly wash within each first ten days of March, June, September and December of every year the interior of the place licensed under section 370 above the floor or pavement with hot limewash if such place has been in use since the last occasion on which it was so washed:—

Provided that this by-law shall not apply to any part of such place as is covered with impervious material, in which case it shall be sufficient thoroughly to cleanse the same by washing with water.

10. The licensee shall not allow facility for the absorption of any liquid filth, refuse or other noxious or injurious matter in the interior of a place licensed under section 370 by reason of want of repair to the surface thereof.

11. The licensee shall adopt all appliances or means which the Commissioners may from time to time require for the purpose of preventing, abating, or minimising any nuisance or annoyance to the neighbourhood or to the public from the use to which a place licensed under section 370 is put and shall at all times maintain them in good and efficient order.

12. The licensee shall trap and connect the drains in a place licensed under section 370 with sewers with the consent of the Commissioners. Where there are no sewers or where permission to connect drains with the existing sewers has been refused by the Commissioners the licensee shall collect waste water from such place in properly constructed cesspools. These should be periodically cleansed and the contents thereof treated in a manner to render them inoffensive or in such other way as the Commissioners may require before disposal in the way recommended by them.

13. A breach of any of the provisions of by-laws 1 to 12 shall be punishable with fine which may extend to fifty rupees and when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

### III.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for dyeing mentioned in clause (vii) of sub-section (1) of section 370.*

1. The licensee shall not use any part of a place licensed under section 370 for residential or sleeping purposes, nor shall use any room within a building in such place as a living or sleeping room, unless it is separated from the remaining portion of such place by a substantial wall and contains a window opening directly to the sky and of dimensions not less than one-tenth of the superficial area of the room.

2. The licensee shall not employ any person suffering from any contagious or infectious disease on a place licensed under section 370.

3. The licensee shall store all materials which have been received on the place licensed under section 370 and which are not required for immediate use in the trade in such a manner and in such a condition as to prevent the emission of noxious or injurious effluvia therefrom.

4. The licensee shall thoroughly cleanse and wash at the close of every working day all floors or pavements in the place licensed under section 370 and shall collect all residual waste or other offensive matter and place them in suitable vessels or receptacles to be forthwith removed, with their covers affixed, from the said place to a place of disposal appointed by the Commissioners or to any safe place for deposit, wherefrom the same shall subsequently be removed by the Commissioners for disposal.

5. The licensee shall adopt best practical means for rendering innocuous all vapour emitted during any trade process either from the articles operated upon or from the contents of any cask, tank, vat, pan or other receptacles upon the place licensed under section 370.

6. The licensee shall keep at all times all floors and pavements in a place licensed under section 370 in good order and repair so as to prevent the absorption of any liquid filth or refuse or any noxious or injurious matter which may fall or be deposited thereon. \*



7. The licensee shall keep the dyeing ground and all the ground surface of the place licensed under section 370 smooth and free from hollows or inequalities so as to prevent any accumulation thereon of any liquid filth or refuse.

8. The licensee shall maintain at all times every drain or means of drainage upon or in connection with the place licensed under section 370 in good order and efficient condition. The licensee shall trap and connect drains of dyeing houses in the said place with sewers with the consent of the Commissioners. Where there are no sewers or where the permission to connect drains with the existing sewers has been refused by the Commissioners, the licensee shall connect the waste water from such place in properly constructed cesspools. These should be periodically cleansed and the contents thereof treated in a manner to render them inoffensive or in such other way as the Commissioners may require before disposal in the way recommended by them.

9. The licensee shall provide air-tight lids or covers for every tank, cask or other receptacle, whether in daily use or not, kept for the purpose of dyeing in a place licensed under section 370. All such receptacles should be covered with air-tight lids overnight so that mosquitoes may not have the chance of gaining entrance into the receptacles.

10. Whenever dyeing is temporarily suspended the licensee shall fill all unused pots in a place licensed under section 370 with sand and shall cover them with mull or gauze tied tightly round their necks to prevent mosquito breeding in them during the period of such suspension.

11. The licensee shall keep every vessel or receptacle in a place licensed under section 370 thoroughly clean even when such vessel or receptacle is not in use.

12. The licensee shall thoroughly wash within each first ten days of March, June, September and December of every year the interior of the place licensed under section 370 above the floor or pavement with hot limewash if such place has been in use since the last occasion on which it was so washed:

Provided that this by-law shall not apply to any part of such place as is covered with impervious material, in which case it shall be sufficient thoroughly to cleanse the same by washing with water.

13. The licensee shall adopt all appliances or means which the Commissioners may from time to time require for the purpose of preventing, abating, or minimising any nuisance or annoyance to the neighbourhood or to the public from the use to which a place licensed under section 370 is put, and shall at all times maintain them in good and efficient order.

14. A breach of any of the provisions of by-laws 1 to 13 shall be punishable with fine which may extend to fifty rupees and, when the breach is a continuing one, with a further fine which may extend to five rupees, for every day after the date of the first conviction, during which the offender is proved to have persisted in the offence.

## IV.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for purposes mentioned in clause (IX) of sub-section (1) of section 370.*

1. The licensee shall see that a place licensed under clause (ix) of sub-section (1) of section 370 has sufficient room therein for the loading or unloading of materials.

2. A breach of any of the provisions of the by-law shall be punishable with a fine which may extend to fifty rupees, and when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

*Executive Instructions.*

1. Any license granted under clause (ix) of section 370(1) may impose such conditions as in the opinion of the Commissioners appear necessary for the safety of convenience of the public or any portion of the public.

2. Every application for the grant of a license under these by-laws shall contain full particulars of the situation and boundary of the place for which the license is required and of the materials for which the license is required. An application for renewal shall be accompanied by the license to be renewed.

## V.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for the purposes mentioned in clause (XI) of sub-section (1) of section 370.*

1. The licensee shall not store in any place licensed under clause (xi) of sub-section (1) of section 370 kerosine, petroleum, naphtha, or any inflammable oil or spirit in excess of the following quantities, namely:—

*Petroleum.*—Maximum quantity 12 gallons; provided that petroleum is contained in closed tins, drums or bottles.

*Naphtha.*—Maximum quantity 1 quart.

*Spirit.*—Maximum quantity 2 gallons.

*Other inflammable oil.*—Such quantities as the Commissioners may from time to time prescribe; provided that such quantity shall not be in excess of the quantity prescribed under the Indian Petroleum Act, 1899.

2. The licensee shall not store other goods of a combustible nature in a place licensed under clause (xi) of sub-section (1) of section 370 for the storage of petroleum.

3. The licensee shall not open a cask or other receptacle containing petroleum nor shall draw off the oil inside the place in which petroleum is stored.

4. The licensee shall not permit smoking nor introduce any artificial light or fire, in any form, within the place licensed under clause (xi) of sub-section (1) of section 370.

5. The licensee shall keep all petroleum stored in a place licensed under clause (xi) of sub-section (1) of section 370 in properly sealed tins, drums or casks and if any tin, drum or cask be opened, shall close it securely again in such a manner that no vapour may be given off.

6. The licensee shall see that the place used for the storage of petroleum is properly ventilated.

7. The licensee shall keep in stock ready for use sufficient number of fire extinguishers and also dry sand in such quantity proportionate to that of the inflammable articles stored as the Commissioners may direct, ready for use in case of any accidental outbreak of fire.

8. A breach of any of the provisions of the by-laws 1 to 7 shall be punishable with a fine which may extend to fifty rupees, and when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

## VI.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of the conduct of business in places used for the purposes mentioned in clause (XII) of sub-section (1) of section 370.*

1. The licensee shall not store more than 1,000 maunds of hay, straw, wood, thatching grass, jute or other dangerously inflammable material in one place under a license issued under clause (xii) of sub-section (1) of section 370.

2. The licensee shall see that the area of the place to be used for storing hay, straw, wood, thatching grass, jute or other dangerously inflammable material is as follows:—

Minimum area.		Maximum quantity of pay, etc., to be stored.
100 square yards	.. ..	50 maunds.
150    "      "	.. ..	100    "
200    "      "	.. ..	400    "
500    "      "	.. ..	1,000    "

3. The licensee shall provide a source of water close by if within 500 feet of any place used for storing hay, straw, wood, thatching grass, jute or other dangerously inflammable materials, there is a place for the storage of petroleum or cloth or articles made of jute or cotton.

4. The licensee shall provide sufficient room in a place licensed under clause (xiii) of sub-section (1) of section 370 for the loading and unloading of materials.

5. The licensee shall leave a clear space of at least five feet between the inflammable material and the nearest walls of any building.

6. The licensee shall enclose by a fence or wall the space occupied by inflammable materials and he shall not permit any person to reside within 10 feet of any stack.

7. The licensee shall not permit any person to smoke, introduce any light into or ignite any substance in any place licensed under clause (xii) of sub-section (1) of section 370.

8. The licensee shall keep one *ghara* or *balti* filled with water for every five maunds of inflammable materials which he is permitted to store:

Provided that no such licensee shall be required to keep more than 50 *gharas* or *baltis* under this by-law.

9. No licensee shall stack any inflammable material to a height exceeding 15 feet.

10. A breach of any of the provisions of by-laws 1 to 9 shall be punishable with a fine which may extend to fifty rupees and when the breach is a continuing one with a further fine which may extend to five rupees for every day after the date of first conviction during which the offender is proved to have persisted in the offence.

### **Model by-laws regulating sarais, dharamsalas and other lodging houses.**

*Ben., Mun., Cir. Nos. 4078-4082 M. of 3-9-1934, to Commr.*

I am directed to forward herewith a set of model by-laws regulating *sarais, dharamsalas* and other lodging houses, framed under section 460 of the Bengal Municipal Act, 1932, for circulation to the municipal commissioners in your division for their guidance, and to request that whenever the by-laws proposed to be adopted by the commissioners of any municipality differ materially from these model by-laws on any point, the reason for the variation may be explained when those by-laws are submitted to Government for confirmation under section 506 of the Act.

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*Memo. No. 4083 M. of the 3rd September 1934.*

Copy forwarded to the Revenue Department of this Government\* for information.

## **Model by-laws regulating sarais, dharamsalas and other lodging houses.**

### *Penalties.*

1. *Fine.*—The penalty for infringement of any of the following by-laws shall be—

- (a) a fine not exceeding the sum stated at the foot of the by-law,
- (b) in the case of a second or subsequent conviction for a similar offence, a fine not exceeding the sum (if any) stated in that behalf at the foot of the by-law.

### *Registration and inspection of sarais, dharamsalas and other lodging-houses*

2. The owner of each *sarai*, *dharamsala* or lodging-house shall have the same registered in the office of the commissioners and shall specify at the time of registration the number of persons to be accommodated in each room thereof.

Fine, Rs. 10.

3. The owner or person in charge of each *sarai*, *dharamsala* or lodging-house shall permit the same to be inspected at any time by any officer authorised in that behalf by the commissioners at a meeting.

Fine, Rs. 10.

### *Prevention of overcrowding and uncleanness.*

4. The owner or person in charge of any *sarai*, *dharamsala* or lodging-house shall not allow any room therein to be occupied at any time by a larger number of persons than may be provided with a floor space of not less than 25 square feet and a cubic space of not less than 250 cubic feet per adult person.

*Explanation.*—Two children under ten years of age shall be counted as one adult person for the purposes of this by-law.

Fine, Rs. 10.

5. The owner or person in charge of a *sarai*, *dharamsala* or lodging-house shall see that the rooms and other parts thereof and the surroundings thereof are kept clean and well-ventilated and that proper and sufficient arrangements are made for conservancy with separate privies and urinals for the use of males and females, and for drinking water for the use of the inmates.

Fine, Rs. 10.

### *Precautions in the case of outbreak of infectious diseases.*

6. In the event of an outbreak of any infectious or contagious disease in a *sarai*, *dharamsala* or lodging-house, the owner or person in charge thereof shall at once give information to the commissioners respecting the existence of such disease.

Fine, Rs. 10; on a second or subsequent conviction Rs. 50.

7. If any person is attacked with an infectious or contagious disease in a *sarai*, *dharamsala* or lodging-house, the owner or person in charge thereof shall take immediate steps for the segregation of other healthy inmates thereof and shall adopt such precautionary measures as may be directed by the commissioners.

Fine, Rs. 10; on second or subsequent conviction Rs. 50.

*General.*

8. The owner or person in charge of a *sarai*, *dharamsala* or lodging-house shall not allow the same to be used for immoral purposes.

Fine, Rs. 10.

9. The owner or the person in charge of a *sarai*, *dharamsala* or lodging-house shall not allow a leper or other person suffering from an open sore or any loathsome or contagious disease to be employed in or to assist in the carrying on of any business in, or to enter or occupy any portion of such place.

Fine, Rs. 10.

**Model By-laws under section 392 of the Bengal Municipal Act, 1932, for control, etc., of dangerous diseases (Cholera, Smallpox, Plague, Diphtheria, Cerebro-spinal meningitis, etc.).**

*Ben., Mun., Cir. Nos. 4146-4150 M. of 6-9-1934, to Comms.*

I am directed to forward herewith seven sets of model by-laws for the control of dangerous diseases framed under section 392 of the Bengal Municipal Act, 1932, for circulation to the municipal Commissioners in your division for their guidance, and to request that whenever the by-laws proposed to be adopted by the Commissioners of any municipality, under the section referred to, differ materially from these model by-laws on any point, the reason for such variation may be explained when those by-laws are submitted to Government for confirmation under section 506 of the Act.

*Memo. No. 4151 M. of the 6th September, 1934.*

Copy, with a copy of the model by-laws, forwarded to the Revenue Department of this Government for information.

**Model By-laws under section 392 of the Bengal Municipal Act, 1932, for control, etc., of dangerous diseases (Cholera, Smallpox, Plague, Diphtheria, Cerebro-spinal meningitis, etc.).**

1. *General.*—In these by-laws "patient" means a person suffering from or suspected to be suffering from any dangerous disease or likely to suffer from any such disease owing to exposure to infection or contagion.

2. On the outbreak of any dangerous disease in any building other than a public hospital the persons referred to in section 377 of the Bengal Municipal Act, 1932, shall, within 12 hours after he becomes cognizant of the existence of the disease, give information respecting the existence of such disease, together with a brief history, the cause so far as it can be ascertained, the duration and the number of persons affected thereby, either personally or in writing, to the Health Officer or Sanitary Inspector or any other officer appointed by the Commissioners in this behalf.

Fine, Rs. 50.

3. If any—

- (a) mill,
- (b) factory,
- (c) workshop,
- (d) tea-garden, or
- (e) other place,

where more than 50 persons are employed is situated—

- (i) within the municipality, the owner, occupier or person in charge of such mill, factory, workshop, tea-garden or other place;
- (ii) within 2 miles of the limits of the municipality, and the office of business of such mill, factory, workshop, tea-garden or other place is situated within the municipality,

the person in charge of such office shall, on the occurrence of a dangerous disease in such mill, factory, workshop, tea-garden or other place, notify such occurrence to the Health Officer, Sanitary Inspector or any other officer appointed by the Commissioners in this behalf in the manner and within the time specified in by-law 2.

Fine, Rs. 50.

4. On the occurrence of a dangerous disease in a family, the guardian or one of the parents of any school-going children in such family shall, as soon as he becomes cognizant of the existence of the disease, notify the fact to the head of the institution concerned as well as to the Health Officer, Sanitary Inspector or any other officer appointed by the Municipal Commissioners in this behalf in the manner and within the time specified in by-law 2.

Fine, Rs. 50.

5. On receipt of the report of the outbreak of any dangerous disease in the family of any scholar, the head of the institution shall grant quarantine leave to the scholar concerned and shall not allow him to rejoin the school unless and until such scholar produces a certificate from the Health Officer or a registered medical practitioner to the effect that he is free from infection.

Fine, Rs. 50.

6. On the outbreak of any dangerous disease the Commissioners shall—

- (i) give public notice of the places or buildings affected and take such other steps under section 376, as they deem necessary for the prevention of the spread of the disease;
- (ii) depute the Health Officer or any other officer appointed by them in this behalf to investigate into the causes of the outbreak in such manner as they deem suitable:

Provided that no officer shall enter any building for such investigation between sunset and sunrise and all such investigations shall be conducted with due regard to the social and religious customs of the family affected.

7. *Isolation and segregation.*—When in the opinion of the Health Officer or of a Sanitary Inspector or of any registered medical practitioner specifically consulted by the Commissioners in this behalf, the isolation of a patient is a precaution necessary for the prevention of infection or contagion to the neighbouring population, the Commissioners shall order the patient to observe isolation and may direct the nearest relative in attendance on the patient, or the occupier of the building in which the patient is staying to arrange for the isolation of the patient in such manner and for such a period as may be approved by the Health Officer, Sanitary Inspector or the registered medical practitioner:

Provided that Commissioners shall not direct the patient to be removed from the building unless, in the opinion of the Health Officer or Sanitary Inspector or the registered medical practitioner, it is impossible to make proper arrangements for his isolation therein.

Fine, Rs. 50.

8. When under the provisions of section 378, the Commissioners have decided that the isolation of a patient in a hospital or a temporary treatment camp erected for the purpose, is necessary for the prevention or control of the spread of infection, they shall serve a notice in writing to that effect on the nearest relative in attendance on the patient or the occupier of the building in which the patient is staying, specifying the time of removal and have the patient removed to a hospital or treatment camp in such manner as may be directed by the Health Officer or a registered medical practitioner selected by the Commissioners for the purpose.

9. Persons suffering from small-pox shall be segregated for six weeks from the date of appearance of the eruptions on the skin and in the case of Cholera, Plague, Diphtheria, Cerebro-spinal Meningitis and any other disease declared to be a dangerous disease by notification under section 3 (ii) (b) until the Health Officer or any registered medical practitioner certifies the patient to be free from infection.

10. No person shall enter any place wherein a patient is isolated without the permission of the Health Officer or a registered medical practitioner.

Fine, Rs. 50.



11. *Miscellaneous.*—The Commissioners may order that any person who has, in their opinion or in the opinion of the Health Officer, Sanitary Inspector or any registered medical practitioner, been exposed to infection from any dangerous disease shall take such drugs in such quantities as may be specified by the Health Officer or any registered medical practitioner, or shall submit himself to such vaccination or inoculation, at such time and place, as may be specified in the order.

Fine, Rs. 50.

12. No person shall, without the writing permission of the Health Officer or Sanitary Inspector or any other officer appointed by the Commissioners in this behalf, dispose of the corpse of a person who has died of a dangerous disease except by burning or burial and the dead body shall be removed for this purpose within 12 hours after death.

Fine, Rs. 50.

13. Any person burning or causing to be burnt corpse of a person who has died of a dangerous disease shall cause every part of it to be completely reduced to ashes, and shall likewise cause the cloths or other articles brought with such corpse to be reduced to ashes.

Fine, Rs. 50.

14. No person shall bury or cause to be buried any corpse, which is likely to spread any dangerous disease, in a non-masonry grave, of less than 6 feet deep.

Fine, Rs. 50.

15. The corpse of a person who has died of a dangerous disease shall not be removed to any place other than a burning or burial ground or any other place appointed by the Commissioners for this purpose for its disposal.

Fine, Rs. 50.

16. If in the opinion of the Health Officer or Sanitary Inspector or any other person authorized by the Commissioners in that behalf, the corpse of a person who has died of a dangerous disease is likely to spread infection during removal to the burning or burial ground, the said Health Officer, Sanitary Inspector or person shall direct the relatives or attendants of the dead person to adopt special measures while removing the corpse for disposal.

17. No person shall carry to the burning or burial ground a corpse of a person who has died of a dangerous disease and for the removal of which special measures have been directed to be adopted without adopting such measures.

Fine, Rs. 50.

18. If the relatives or attendants of a person who has died of a dangerous disease are unable to adopt the measures referred to in by-law No. 16 for the removal of the corpse, the Health Officer or Sanitary Inspector or other person referred to in that by-law shall himself

arrange for the removal of the corpse in the manner directed by him and realize the cost from the relatives or attendants of the dead person :

Provided that in the case of the dead body of a pauper or if the relative of the dead are too poor to pay, the cost shall be met from the Municipal fund.

19. The Health Officer, Sanitary Inspector or any other person authorized by the Commissioners in this behalf may, by a notice in writing, require any person to carry out or to allow to be carried out by such agency and within such time as may be specified in the notice, such measures for the disinfection or evacuation of any premises exposed to infection or contagion from a dangerous disease in the occupation of such person or for the disinfection or destruction of any of the personal effects of a patient as the said Health Officer, Sanitary Inspector or person may consider necessary.

Fine, Rs. 50.

20. The Health Officer, Sanitary Inspector or any person authorized by the Commissioners in this behalf may, by a notice in writing, require the removal under such precautions and within such period as may be specified in the notice of articles from a building, where a dangerous disease has broken out, to a place for washing and disinfection provided by the Commissioners.

Fine, Rs. 50.

21. Where a public disinfecting station or a place for disinfection or washing of infected articles has not been provided by the Commissioners, clothes used by persons suffering from a dangerous disease other than those which can be burnt shall be stored in a separate room. Such clothes shall not be sent to a *dhobi* or washerman to be washed, nor shall they be washed in any source of water-supply, before they have been disinfected to the satisfaction of the Health Officer or Sanitary Inspector.

Fine, Rs. 50.

22. A *dhobi* or washerman shall not knowingly take clothes from a house where any person is suffering from a dangerous disease. He shall cease from carrying on his profession on the occurrence of any dangerous disease in the building occupied by him and shall not resume his profession till the building has been declared free from infection by the Health Officer, Sanitary Inspector or any other person appointed by the Commissioners in this behalf.

Fine, Rs. 50.

23. On the occurrence of a dangerous disease in the building occupied by a *dhobi*, he shall keep with him all the clothes previously sent to him for washing till the written permission of the Health Officer, Sanitary Inspector or any other person appointed by the Commissioners in this behalf has been obtained for returning them to the owners after being disinfected.

Fine, Rs. 50.

24. A dealer in food-stuffs, clothing or other articles shall cease from carrying on his occupation on the occurrence of any dangerous disease in the building occupied by him and shall not resume his occupation until he is permitted to do so by the Health Officer, Sanitary Inspector or any other person authorised by the Commissioners in this behalf.

Fine, Rs. 50.

25. When the Commissioners are satisfied that the condition of any privy, urinal, drain, sewer or cesspool is such as to cause the risk of an outbreak of any dangerous disease to the inhabitants of the neighbourhood, they may direct the occupier of the land or building on which such privy, urinal, drain, sewer or cesspool is situated to disinfect or to allow an officer of the Commissioners to disinfect the same with such disinfectants in such quantities and at such times as may be specified by them.

Fine, Rs. 25.

*Model by-laws for the prevention of the spread of plague and the destruction of rodents, etc.*

1. *Rat-proof bins or receptacles.*—When required by the Commissioners to do so for the prevention of the outbreak or spread of plague, every owner or occupier of a building shall provide therein a rat-proof bin or receptacle for the temporary deposit of food residue, cups, plates and other utensils prior to washing.

2. *Rat-proof dust bins.*—The Commissioners may provide rat-proof dust bins for the depositing of sewage, rubbish and offensive matter.

3. *Notification of rat mortality.*—Whenever the Commissioners apprehend any outbreak of plague they may require by beat of drums prompt notification of cases of mortality among rats in any building or on any land; whereupon the owner or occupier of such building or land shall forthwith give information of any such occurrence to the Health Officer or the Commissioners either personally or in writing.

4. *Rat destruction.*—Whenever the Commissioners at a meeting shall decide on the destruction of rats as a measure to prevent the outbreak or spread of plague within the municipality, it shall be lawful for the Commissioners to make necessary arrangements for such destruction by smoking rat holes and by placing rat traps and rat poison baits in any building, or land consistently with the safety of the building and its occupants.

5. *Disposal of dead rats.*—When required by the Commissioners to do so for the prevention of any outbreak or spread of plague, the owner or occupier of every building or land in which a dead rat is found shall forthwith place it in kerosine oil, until its disposal by burning can be arranged.

6. *Disinfection.*—When required by the Commissioners to do so for the prevention of the outbreak or spread of plague, the owner or occupier of a building shall arrange for the cleaning and disinfection, at such intervals as may be fixed by the Commissioners, of the floor and walls (up to a height of three feet from the floor or plinth) of the

building with kerosine oil emulsion prepared by boiling half a pound of hard soap in half a gallon of water, to which four gallons of kerosene oil have been subsequently mixed.

7. *Disinfection*.—The owner or occupier of a building in which a case of plague has occurred shall arrange for the immediate disinfection of the sputum of the patient and discharges from buboes of such patient with Lysol, Cyllin or Hycol lotion in strength of one teaspoonful to a pint of water or in any other active germicidal solution.

8. *Disinfection of room of pneumonic plague cases*.—The Commissioners may arrange for the disinfection of the room in which a case of pneumonic plague has occurred with formalin, gas or with other suitable disinfectants.

9. *Arrangement for immunisation*.—The Commissioners may by beat of drum announce the arrangements made for anti-plague inoculation; whereupon every person shall be bound to get himself inoculated; provided that no person shall be bound to take inoculation who owing to constitutional disability or on medical grounds is certified by a registered medical practitioner to be unfit for such inoculation.

10. *Penalty*.—Whoever commits a breach of any of the by-laws 1, 3, 4, 5, 6, 7, 8 and 9 shall be punishable with a fine which may extend to Rs. 50.

#### *Model by-laws for the prevention of rabies in men and animals.*

1. The Commissioners may require by beat of drum that all dogs, whenever led or taken out into a public street or a public place shall be properly muzzled with a leather strap or any other similar contrivance.

2. Any person who has in his possession any dog which he knows or has reason to believe to be suffering from rabies or to have been bitten or snapped at by any dog, jackal or any other animal suffering from rabies or suspected to be suffering from rabies shall immediately intimate the fact in writing to the Commissioners and also to the Health Officer.

3. Persons bitten by any dog, jackal or other animal suffering from rabies or suspected to be suffering from rabies shall report the fact to the Commissioners in such details as may be required by the Commissioners.

4. Whoever commits a breach of any of the by-laws shall be punishable with a fine which may extend to Rs. 50.

#### *Model by-laws for the control of malaria.*

1. Whenever a campaign for the prevention of malaria has been decided upon by the Commissioners at a meeting, it shall be lawful for the Commissioners to treat all tanks, ponds, wells and water collections periodically with larvacides.

2. The owner of every drain or open cesspool shall when required by the Commissioners by a notice in writing treat such drain or cesspool with proper larvacides as a measure for the destruction of

mosquitoes at intervals of not more than 10 days, provided that the necessary materials are supplied by the Commissioners. The Commissioners may themselves arrange for such measure being taken by their own staff.

3. The Commissioners may by notice in writing require the owner of any land to provide subsoil drains in order to improve its sanitary condition provided that there is a suitable outfall for such drains.

4. The owner or occupier of a building shall, when required by the Commissioners by a notice in writing within a period to be specified in such notice, provide mosquito-proof coverings for all cesspools within the premises and shall construct yard gullies communicating with the drains.

5. Every owner or occupier of a building shall, when required by the Commissioners by a notice in writing, cause every cistern and reserve tank for storage of water in his premises to be made mosquito-proof.

With the above end in view every cistern or reserve tank shall conform to the following conditions:—

- (a) The lid shall be well fitted and of a pattern approved by the Health Officer or the Municipal Engineer or by the Chief Engineer, Public Health Department, and shall be kept closed by strong bolts and nuts or shall be secured by lock and key. The lids should not be opened until required for inspection by an officer authorised by the Commissioners in that behalf or for repair works.
- (b) The warning pipe or the overflow pipe attached to the cistern or reserve tank shall be protected by a perforated metal cap of a standard pattern approved by the Health Officer or the Municipal Engineer or the Chief Engineer of the Public Health Department.
- (c) The punch holes in the cistern or reserve tanks made by the municipal officers shall be either utilised for connecting pipes or properly closed.
- (d) Water gauges necessitating an aperture in the roof or the sides of the cistern or reserve tank shall be mosquito-proof.
- (e) The flushing cisterns in urinals and water closets should be of mosquito-proof pattern.
- (f) If the cistern or tank is not provided with a lid, as an alternative, every opening shall be covered with a mosquito-proof screen consisting of wire-netting of at least sixteen meshes to the inch each way or any other material which will effectively prevent ingress or egress of mosquitoes. In the case of non-provision of mosquito screen all unscreened containers shall be completely emptied every seven days and thoroughly cleaned and dried.

6. No new water connection shall be given to any building until the storage cistern installed therein have been inspected and certified to be mosquito-proof by the Health Officer or the Municipal Engineer or any other competent person authorized by the Commissioners in this behalf.

7. Every cistern or reserve tank or flush cistern shall be numbered by the Commissioners to facilitate inspection.

8. Every cistern or reserve tank or flush cistern shall be kept in good repair or shall be replaced by new ones when necessary.

9. If any cistern or reserve tank or flush cistern be found on examination by the Health Officer or any other officer appointed by the Commissioners to do such work, to be non-mosquito-proof or otherwise not in conformity with any of the aforesaid conditions he may by written notice require the owner or occupier of the premises—

(a) to replace the same, or

(b) to make such alteration therein as may be specified in the notice.

10. If any notice issued under by-law 9 is not complied with within seven days from the date of service thereof, the Commissioners may forthwith carry out the work and the costs thereof shall be payable by the person on whom the notice was issued.

11. When the Commissioners or any department of Government have constructed any work with the object of prevention of breeding of mosquitoes, the owner or occupier of the premises on which such works stand shall prevent such premises being used in any manner whatsoever that is likely to cause the deterioration or lessening of the efficiency of such work.

12. Whoever commits a breach of any of the foregoing by-laws, viz., 2, 4, 5, 8, 10 and 11 shall be liable to a fine which may extend to Rs. 50.

13. Any person who without the consent of the Commissioners interferes with, or injures or destroys or renders useless any works executed or any materials or things, placed in, under or upon any premises, by or under the authority of the Commissioners referred to in by-laws 1, 2 and 10 shall be liable to a fine which may extend to Rs. 50.

*Model by-laws for prevention of the spread of disease by flies or other insects.*

1. Every baker or confectioner who keeps for sale any bread, sweetmeats or other prepared articles of food and every vendor or hawker of such articles shall keep the same in a glass-case or almirah provided with wire gauze screen so as to keep away flies or other insects.

2. Every owner or occupier of a meat or fish shop or stall shall, when required by the Commissioners by a notice in writing, make his shop or stall fly-proof with suitable materials.

3. Every owner or occupier of a building shall, when required by the Commissioners by a notice in writing, provide fly-proof receptacles for the collection of rubbish and other offensive matter until these can be deposited in such place as may be provided by the Commissioners for the purpose.

4. Whoever commits a breach of any of the by-laws 1 to 3 shall be liable to a fine which may extend to fifty rupees, and in the case of a continuing offence to an additional fine which may extend to five rupees per diem.

***Model by-laws regulating rag-flock manufacture and trade in rags and bones.***

1. In these by-laws—"rag-flock" means flock which has been produced wholly or partly by tearing up woven or knitted or felted materials, whether old or new, but does not include flock obtained wholly in the process of scouring and finishing or newly woven or newly knitted or newly felted fabrics.

2.\* No person shall sell or have in possession for sale any rag-flock manufactured from rags or use for the making of any article of upholstery, cushions or beddings, any such flock unless it conforms to the standard prescribed below and unless such flock has been disinfected to the satisfaction of the Commissioners.

The amount of soluble chlorine (as chlorides) removed by thorough washing with distilled water at a temperature not exceeding 25° centigrade from not less than 40 grammes of a well-mixed sample of rag-flock shall not exceed 30 parts of chlorine in 100,000 parts of the flock.

3. No person shall trade in rags or in second hand clothing or bedding, unless the Health Officer or the Commissioners are satisfied about the cleanliness of such articles and also about the freedom of such articles from infection of any dangerous disease.

4. No person shall trade in bones or products of bones unless such articles have been disinfected before importation or exposure of sale, to the satisfaction of the Health Officer or the Commissioners.

5. Whoever commits a breach of any of the by-laws 2 to 4 shall be punishable with fine which may extend to fifty rupees.

***Model by-law regarding disposal of refuse or waste matter or other matter or thing contaminated with or exposed to infection or contagion.***

No person shall dispose of any refuse, waste matter or other matter or thing, which has been contaminated with or exposed to infection or contagion, except by burning or burial, after proper disinfection, at a safe distance from sources of water-supply.

Fine, Rs. 50.

***Model by-laws regulating the use of, and prevention of nuisance in regard to, public water-supply, bathing and washing places, streams, channels, tanks and wells.***

*Ben., Mun., Cir. Nos. 666-670M. of 17-2-1934, to Commr.*

I am directed to forward herewith copies of model by-laws, under section 355 of the Bengal Municipal Act, 1932, relating to public water-supply, etc., for circulation to the municipal commissioners in your division for their guidance. Whenever the by-laws proposed to be

framed by the commissioners of any municipality, under that section, differ materially from these model by-laws, the reasons for such variation may be explained when the by-laws are submitted for the confirmation of the Local Government under section 506 of the Act.

*Memo. No. 671M. of the 17th February 1934.*

Copy forwarded to the Revenue Department of this Government for information.

*Model by-laws regulating the use of, and prevention of nuisance in regard to, public water-supply, bathing and washing places, streams, channels, tanks and wells.*

#### *Definition.*

1. In these by-laws the word "channel" shall include "nala," "river," "stream," "ditch," or "watercourse."

#### *Penalty.*

2. *Fines.*—They penalty for the infringement of any of these by-laws shall be—

- (a) a fine not exceeding the sum stated at the foot of the by-law,
- (b) in the case of a second or subsequent conviction for a similar offence, a fine not exceeding the sum (if any) stated in that behalf at the foot of the by-law, and
- (c) in the case of a continuing offence, a further fine, not exceeding the sum (if any) stated at the foot of the by-law as the daily fine, which daily fine may be imposed for each day after written notice of the offence from the Commissioners.

3. *Setting up obstruction.*—No person shall, without the general or special permission of the Commissioners, set up any obstruction in any channel which is a source of public water-supply.

*Explanation.*—The spreading of fishing-nets and the placing of fishing-traps in any such channel are included in the word "obstruction" as used in this by-law.

Fine Rs. 10; daily fine Rs. 2.

4. *Easing oneself.*—No person shall ease himself at the side of or into any channel.

Fine Rs. 10.

5. *Throwing rubbish, sewage or offensive matter.*—No person shall throw, deposit or discharge any rubbish, sewage or offensive matter into any channel, tank or well.

Fine Rs. 10; on a second or subsequent conviction Rs. 50.



6. *Cleanliness of banks, and access for conservancy.*—Every owner or occupier of any part of the bank of any channel which is a source of public water-supply shall—

- (a) keep such bank free from filth, dense vegetation and other obstruction, and
- (b) at all times allow the Commissioners, or any of their servants duly authorised in this behalf, to have access to such channel for any purpose of public conservancy.

Fine Rs. 10.

7. *Weeds.*—Any person taking weeds from a channel or tank shall completely remove them from the slope and crest of such channel or tank within three days.

Fine Rs. 10; daily fine Rs. 2.

8. *Masonry platforms and drains for wells.*—The owner of every well which is a source of public water-supply shall construct a masonry platform and drains to prevent the surface water falling into the well or stagnating in its vicinity.

Fine Rs. 10; daily fine Rs. 2.

9. *Bathing or washing near well or standpipe.*—No person shall bathe, or shall wash clothes, utensils or any other article, within a distance of ten feet from the lowest platform of any well-pump, standpipe or hydrant.

Fine Rs. 10.

10. *Use of standpipes and fountains.*—Except with the general or special permission of the Commissioners and under such conditions as they may from time to time prescribe, no person shall use any standpipe, pump, hydrant or fountain belonging to the Commissioners for any purpose other than drawing water—

- (a) for drinking on the spot, or
- (b) for carrying away for domestic purposes.

Fine Rs. 10.

11. No person shall put his mouth to any tap or cock attached to any standpipe or hydrant used by the public.

Fine Rs. 10.

12. No person shall cause damage to any hydrant, standpipe, pump, fountain, water-tap or cock belonging to the Commissioners or tamper with any of their property connected with the waterworks in such a manner as to affect the use of public water-supply.

Fine Rs. 20.

13. No person suffering from leprosy or any other contagious disease shall touch or draw water from any standpipe used by the public.

Fine Rs. 20.

14. *Steeping jute, hemp, etc.*—No person shall, without the general or special permission of the Commissioners, steep in any tank or channel any jute, hemp or other vegetable matter which is likely to render the water offensive or noxious to the neighbourhood.

Fine Rs. 10; on a second or subsequent conviction Rs. 50.

15. *Washing infected articles.*—No person shall wash or cause to be washed in or near any tank or channel or any other receptacle for water used by the public for drinking or bathing purposes any clothes, bedding or other articles which have been used by a person suffering from any infectious or contagious disease.

Fine Rs. 50

16. *Bathing by infected persons.*—No person suffering from any infectious or contagious disease shall bathe in any public bathing place.

Fine Rs. 10.

17. *Bathing places reserved for females.*—No male person above twelve years of age shall stand on or near, or bathe or wash in, any bathing place which has been reserved by the Commissioners at a meeting for the use of females only.

Fine Rs. 10.

18. *Cattle troughs.*—No person shall use for any other purpose any drinking trough which has been reserved by the Commissioners for watering cattle.

**Model by-laws under section 329 of the Bengal Municipal Act, 1932, regulating erection of masonry buildings.**

*Beng. Mun. Cn. Nos. 3262-3266 M. of 21-7-1934, to Commrs*

I am directed to forward herewith a set of model bylaws regulating erection of masonry buildings, framed under section 329 of the Bengal Municipal Act, 1932, for circulation to the commissioners of municipalities in your division, to which the provisions of Schedule VI of the Act have been extended, for their guidance. Whenever the bylaws proposed to be adopted by the commissioners of any such municipality differ materially from these model bylaws on any point, the reasons for the variation may be explained when those bylaws are submitted to Government for confirmation under section 506 of the Act.

*Memo. No. 3267 M. of the 21st July 1934.*

Copy forwarded to the Revenue Department of this Government, for information.

**Model bylaws under section 329 of the Bengal Municipal Act, 1932,  
regulating erection of masonry buildings.**

1. When type-plans, with specifications, of buildings, privies and urinals have been approved by the Commissioners at a meeting, copies thereof shall be obtainable from the office of the Commissioners or from an agency prescribed by them on payment of fees in accordance with a scale to be fixed by the Commissioners at a meeting.

2. When the Commissioners at a meeting have directed that in certain specified areas, buildings shall be erected only in accordance with certain definite types or descriptions, no person shall erect a building of a different type or description in such areas.

Penalty Rs. 50.

3. No person shall erect a building for a particular purpose in an area where the construction of a building for such a purpose has been prohibited by the Commissioners at a meeting.

Penalty Rs. 50.

4. The Commissioners shall maintain a list of licensed builders and surveyors.

NOTE.—The term “builder and surveyor” means a contractor.

5. No contract for the election or re-erection of a building shall be given to any person other than a license builder and surveyor.

Penalty Rs. 50.

6. Every builder and surveyor in a municipality shall take out a license from the Commissioners on payment of the prescribed fees.

Fine Rs. 50.

7. No builder and surveyor shall be granted a license unless the Commissioners are satisfied as to his financial stability and also as to his competence to carry through works of a magnitude indicated by an estimated cost of Rs. 1,000 for original works and Rs. 2,500 for repair works.

Fine Rs. 50.

**Model by-laws regarding prohibition and regulation of traffic under  
Section 245 (a) and (b) of the Bengal Municipal Act, 1932.**

*Ben., Mun., Cir. Nos. 1688-92M. of 19-4-1934, to Commsrs.*

I am directed to forward herewith a set of model by-laws regarding prohibition and regulation of traffic, framed under clauses (a) and (b) of section 245 of the Bengal Municipal Act, 1932, for circulation to the municipal commissioners in your division for their guidance, and to request that whenever the by-laws proposed to be adopted by the commissioners of any municipality, differ materially from these model by-laws on any point, the reason for the variation may be explained when those by-laws are submitted to Government for confirmation under section 506 of the Act.

**Model bylaws regarding prohibition and regulation of traffic under section 245(a) and (b) of the Bengal Municipal Act, 1932.**

*Definition.*

1. In these by-laws "cattle" means cattle as defined in section 3 of the Cattle Trespass Act, 1871 (1 of 1871).

*Penalties.*

2. *Fines.*—The penalty for the infringement of any of these by-laws shall be—

- (a) a fine not exceeding the sum stated at the foot of the by-law,
- (b) in the case of a second or subsequent conviction for a similar offence a fine not exceeding the sum (if any) stated in that behalf at the foot of the by-law, and
- (c) in the case of a continuing offence, a further fine, not exceeding the sum (if any) stated at the foot of the by-law as the daily fine, which daily fine may be imposed for each day after written notice of the offence from the commissioners.

*Regulation of traffic on public streets.*

3. *Youthful drivers.*—No owner of any carriage or cart shall allow it to be driven on any public street by a driver under *fourteen* years of age.

Fine Rs. 10.

4. *Driving more than one carriage or cart.*—No driver shall drive or have in his charge on any public street more than one carriage or cart, except in the case of two carts, the hinder one of which is *severely* fastened to the preceding cart.

Fine Rs. 10.

5. *Standing vehicles.*—No person shall keep standing on any public street any vehicle, in such a manner as to cause inconvenience to the public, for any time longer than may reasonably be required for loading or unloading or for taking up or setting down passengers.

Fine Rs. 10; on a second or subsequent conviction Rs. 50.

6. *Charge of carriage or cart.*—No person shall leave any carriage or cart on any public street without a person in charge thereof.

Fine Rs. 10; on a second or subsequent conviction Rs. 50.

7. *Rule of the road.*—Any person driving a carriage or cart, or riding a bicycle, or driving or riding an animal, or carrying a palanquin, on any public street, shall keep to his left when he passes a vehicle coming from the opposite direction or when any vehicle overtakes him, and shall keep to his right when overtaking any vehicle.

Fine Rs. 10.

8. *Lights*.—No person shall drive any of the undermentioned vehicles or animals, or convey any palanquin, on any public street, between half-an-hour after sunset and half-an-hour before sunrise, unless lights are provided as follows:—

- (a) every carriage must carry two conspicuous lights, one on each side;
- (b) every cart must carry one conspicuous light;
- (c) every elephant, camel or palanquin must be accompanied by one conspicuous light;
- (d) every cycle must carry one conspicuous light in front.

Provided that this by-law shall not apply on nights of full-moon or on the four nights before and after full-moon, if and when the moon is clearly visible.

Fine Rs. 50.

9. *Signals on motors and cycles*.—No person shall drive any motor-car, or ride any motor-cycle or any tricycle or bicycle, on any public street unless it has attached to it a bell, horn or other suitable signal in good order.

Fine Rs. 50.

10. *Maximum load for carts*.—No cart shall, without the general or special permission of the commissioners, carry on any public street a load in excess of twenty maunds.

Fine Rs. 10.

11. *Vehicles laden with girders, etc.*—No person shall drive upon a public street any vehicle laden with iron girders, rails, beams, bullas, bamboos, planks or other materials of a similar character which exceed twelve feet in length, unless the vehicle be accompanied by another person and be loaded in such a way that no portion of the said materials touches the ground.

Fine Rs. 10.

12. *Vehicles laden with bricks, stones, etc.*—No person shall drive upon a public street any vehicle laden with bricks, stones or other materials of a similar character, unless such materials be so secured that they cannot fall on to the street.

Fine Rs. 10.

13. *Animal laden with bamboos or timber*.—No person shall convey on any public street bamboos or timber placed on the back of any animal in such a way that any portion of such bamboos or timber touches the ground.

Fine Rs. 10.

14. *Taking elephants or camels along a public street*.—No person shall, without the general or special permission of the commissioners, take any elephant or camel along any public street.

Fine Rs. 50.

15. *Taking an elephant over a bridge.*—No person shall allow any elephant in his charge to go over any bridge on any public street unless the bridge be constructed of arched masonry, steel or ferro-concrete or similar durable material.

Fine Rs. 50.

16. *Loaded pack-animals.*—No person shall drive upon a public street, at the same time, more than two loaded pack-animals.

Fine Rs. 10.

17. *Foals.*—No person riding or driving a mare on any public street shall allow a foal to accompany the mare unless it is secured.

Fine Rs. 10.

18. *Driving cart in centre of a public street.*—No person shall drive a cart on the centre of any public street on which cart-tracks are provided.

Fine Rs. 10.

19. *Sitting or sleeping.*—No person shall sit or sleep on any public street so as to obstruct traffic.

Fine Rs. 10.

*Regulation of traffic on foot-paths.*

20. *Driving or riding on foot-path.*—No person shall wilfully drive or ride any vehicle or cattle on any foot-path set apart for the use of foot-passengers.

Fine Rs. 10.

*Prevention of obstructions, encroachments or creations on or near public street, ghats or ferries.*

21. *Abandoning or letting loose cattle.*—No person shall abandon or let loose or negligently allow to get loose, any cattle, on any public street.

Fine Rs. 10.

22. *Children playing or wandering.*—No parent or guardian of any child below the age of seven years shall allow such child to play or wander about on any public street so as to obstruct traffic.

Fine Rs. 10.

23. *Depositing articles.*—No person shall, without the general or special permission of the commissioners, deposit any articles on any public street, except for a temporary purpose, or use any public street as a place for keeping any vehicle or cattle, or for washing any article, or for any other private purpose:

Provided that, during the months of April, May and June, between the hours of 10 p.m. and 5 a.m., khatias may be laid on the side of a public street in such a manner as not to cause obstruction or danger to persons using the public street.

Fine Rs. 10.

24. *Planting trees.*—No person shall plant a tree on any public street without the general or special permission of the commissioners.

Fine Rs. 10.

25. *Excavations and enclosures.*—No person shall, without the general or special permission of the commissioners, make any excavation on any public street or on or near any ghat or public ferry or enclose any such street or any part thereof.

Fine Rs. 10; daily fine Rs. 2.

26. *Removing turf or cutting grass.*—No person shall, without the general or special permission of the commissioners, remove turf or cut grass from any public street or the slopes thereof.

Fine Rs. 10.

27. *Discharge of water.*—No person shall affix or cause to be affixed to any building owned or occupied by him any gutter, spout or other thing intended for the conveyance and discharge of water, or shall leave in any such building any opening for the discharge of water, in such way that the water discharged therefrom is thrown or falls upon a public street except through a downpipe or other suitable contrivance reaching to the level of the public street.

Fine Rs. 10; daily fine Rs. 2.

28. *Breaking in horses.*—No person shall break in horses on any public street not set apart for that purpose.

Fine Rs. 10; on a second or subsequent conviction Rs. 50.

29. *Flying kites.*—No person shall fly a kite on any public street or in such a way that it may fall on any public street.

Fine Rs. 10.

30. *Playing games.*—No person shall play any game on any public street.

Fine Rs. 10.

31. *Throwing stones or missiles.*—No person shall throw or discharge any stone or missile on or near any public street.

Fine Rs. 10.

32. *Driving across a drain.*—No person shall drive any vehicle across a public drain in or near any public street so as to cause damage to such drain.

Fine Rs. 10.

**33. Barbed wire.**—No owner or occupier of land abutting on any public street shall fence such land with barbed wire.

Fine Rs. 10; daily fine Rs. 2.

**34. Dust-bins.**—No person shall—

- (a) place any burning material in any municipal dust-bin on or near a public street, or
- (b) burn in any such dust-bin any paper, leaves, grass, wood or other material.

Fine Rs. 10.

**35. Closed public street.**—No person shall take or drive any motor vehicle, carriage or cart on a public street or part of a street which is closed by order of the commissioners to all or any specified description of wheeled traffic or displace any barrier or fence or notice erected for the purpose of closing such public street or part thereof.

Fine Rs. 10.

*Regulation of the use or occupation of public street or places for sale of articles, etc., and provision for the levy of fees for such use or occupation.*

**36. Exposing articles for sale.**—Without the general or special permission of the commissioners which may, if they so direct, be subject to the payment of fees according to a scale prescribed by them at a meeting, no person shall use or occupy any public street or any other public place, for the sale of any article or for the exercise of any calling or for setting up any booth or stall.

Fine Rs. 10; on a second or subsequent conviction Rs. 50.

**Model by-laws under (d), (e) and (f) of section 269 and under section 277, regarding privies, urinals and drains of water-carriage system and hand removal system.**

*Ben., Mun., Cir. Nos. 3125-3129M. of 10-7-1934, to Comms.*

I am directed to forward herewith two sets of model by-laws, viz.,—(1) model by-laws under clauses (d), (e) and (f) of section 269 and under section 277 regarding privies, urinals and drains of the water-carriage system; and (2) model by-laws under clauses (b), (c) and (f) of section 269 regarding privies and urinals of hand removal system framed under sections 269 and 277 of the Bengal Municipal Act, 1932, for circulation to the municipal Commissioners in your division for their guidance, and to request that whenever the by-laws, proposed to be adopted by the Commissioners of any municipality, differ materially from these model by-laws on any point, the reason for such variation may be explained when those by-laws are submitted to Government for confirmation under section 506 of the Act.



*Memo. Nos. 3130-3131M. of the 10th July 1934.*

Copy, with a copy of the model by-laws, forwarded to the Chief Engineer, Public Health Department and Revenue Department for information.

*Model by-laws under clauses (d), (e) and (f) of section 269 and under section 277, regarding privies, urinals and drains of water-carriage system and hand removal system.*

1. Every person who desires to connect his privies or urinals with the municipal underground sewerage system, shall apply to the Commissioners for written permission.

2. The application shall be in such form as may be laid down by the Commissioners and shall be accompanied by a plan in triplicate on a scale of not less than sixteen feet to an inch, showing the whole of the drains and their sizes and gradients, the levels of the ground surface in reference to a datum specified by the Commissioners, and the position of every building, house-gulley, soil pipe, waste pipe, bath, privy or urinal in the premises which it is proposed to connect with the municipal underground sewerage system.

3. The Commissioners may direct the person making the application to make such alterations or amendments in the plan as may seem to them necessary or desirable, and such person shall alter the plan accordingly, and if no such alteration or amendment is made within thirty days the application shall stand rejected.

4. When the plan has been approved, one copy shall be returned to the person making the application, signed by the Chairman and two copies shall be retained in the municipal office.

5. Upon receipt of the approved plan and a written permission to proceed, the owner of the premises may authorise a builder or surveyor licensed under this Act to execute the work, under these by-laws except such portion as lies within a public highway:

Provided that if the work is not commenced within three months from date of the permission, such permission shall be deemed to be cancelled.

6. No person shall commence to execute any work under these by-laws before obtaining a written permission from the Commissioners to proceed with the work.

7. Every person who applies for a connection of his privy or urinal with the municipal underground sewerage system, shall deposit with his application a fee for Rs. .... for each such connection. If the Commissioners do not grant permission for the connection to be made within six months from the date of application the fee deposited shall be refunded.

8. On completion of the work under these by-laws the owner or occupier of the premises shall give notice of completion to the officer authorised by the Commissioners in this behalf. When that officer has certified that the whole of the work has been done satisfactorily and in accordance with these by-laws, the connection with the municipal underground sewerage system will be made by the Commissioners.

9. No person other than a builder or surveyor licensed under this Act shall execute any work in connection with the construction of a connected privy or connected urinal and its connection with the municipal underground sewerage system.

*Note.*—A list of builders and surveyors licensed under this Act shall be maintained at the municipal office which shall be open to inspection at any time during regular office hours.

10. The materials used in the construction of any work executed under these by-laws shall be of such quality and description as may be laid down by the Commissioners in a standard specification to be drawn up by them, a copy of which shall be available for consultation to any person applying therefor. The Commissioners may from time to time alter this specification:

Provided that such alteration shall not apply to any work commenced before the date on which the alteration is made.

*General provisions as to drains.*

10A. The provision of these by-laws except by-law 7 shall, so far as possible, apply to the construction and connection of a drain of a building or land with a municipal drain or underground sewerage system.

11. The drainage system of premises connected with municipal underground sewerage system shall, so far as is practicable, provide for the diversion of all rain-water and surface-water from the underground sewerage system to the municipal surface-water drains. With this object, the owner of the premises shall construct such intercepting gully-pits, overflows and separate surface-water drains, as he may be called upon by the Commissioners to make as a condition precedent to the grant of permission to connect the privies or urinals thereon with municipal underground sewerage system.

12. Any inlet to any drain connected with the municipal underground sewerage system, must be at least one foot above the highest known flood level, at such inlet.

13. No person shall discharge into any drain or overflow channel constructed for the purpose of discharging surface-water only any offensive matter, sewerage or rubbish so as to cause a nuisance or danger to health.

*Pipe drains from premises.*

14. All stoneware pipes shall be of a quality equal to the British Standard Specification, and shall be properly laid in straight lines vertically and horizontally and joined with tarred gasket and cement in conformity with the specification laid down by the Commissioners under by-law 10. Every change in direction shall be formed by properly curved pipes or channels. Such changes of direction shall, unless otherwise specially permitted by the Commissioners, be made in inspection pits.

15. All stoneware pipes shall be (i) laid upon a bed of good concrete as per specification of such width as may be approved by the Commissioners, and not less than six inches thick, and (ii) shall be covered for half its depth with concrete not less than four inches thick. ● ●

16. Except, when otherwise specially permitted by the Commissioners in writing, the minimum fall of a pipe drain shall be as follows:—

Drains of four inches diameter	...	• ...	1 in 40
Drains of six inches diameter	...	...	1 in 80
Drains of nine inches diameter	...	• ...	1 in 150

17. All pipe drains shall be of adequate size and in no case shall any pipe drain have a diameter of less than four inches nor more than such a size as may be specified by the Commissioners.

18. Cast-iron pipes used as drain pipes shall be properly jointed with lead and yarn and caulked to the satisfaction of the Commissioners or any person authorised by them in this behalf.

19. Whenever necessary for protection of adjoining property, all excavation for the execution of any work under these by-laws shall be properly timbered.

20. Every pipe drain shall be water-tight and shall be tested by the Commissioners or any person authorised by them in this behalf by water test. The water test shall be made to a pressure of four feet above the highest point of the drain. No pipe drain shall be used until the Commissioners or any person authorised by them in this behalf shall have certified in writing that it has passed this test.

21. Every pipe drain shall be ventilated by carrying up a vertical pipe or shaft from the upper end of the pipe drain, and such pipe or shaft to be not less than four inches in diameter and shall be fixed in such a manner as effectually to prevent any escape of foul air from such pipe into any premises in the vicinity thereof, and in no case to a height of less than ten feet.

22. Every inlet to the pipe drains not being a ventilating inlet specifically provided for that purpose shall be trapped by an efficient trap so constructed as to give a water-seal of not less than two inches.

23. All gulleys, traps, gratings, covers or other appliances shall be of patterns, sizes and qualities in accordance with patterns approved by the Commissioners and kept in the municipal office.

24. No drain shall be laid under any building except when no other form of construction is possible. If a drain is laid under a building it shall be laid in a straight line throughout and so as to leave between the top of the drain at its highest point and the surface of the ground beneath the building, a distance of not less than the full diameter of the drain, and shall be constructed either of cast-iron pipes with socket and spigot joints, or else with stoneware pipes completely surrounded with cement concrete at least six inches thick all round.

Adequate means of access shall be provided at each end of such portion of the drain as is beneath the building.

25. Any pipe drain passing under a wall, shall be protected at the part through the wall by an arch, reinforced concrete slab, or iron support so as, in the opinion of the Commissioners or any person authorised by them in this behalf, to be of sufficient strength to prevent any disturbance of the pipe drain caused by pressure or settlement of the wall.

26. Whenever specially required by the Commissioners, a suitable trap shall be placed in a drain at a point as near as may be practicable to the junction of the drain with the municipal underground sewerage system.

#### *Open drains.*

27. (1) Every open drain constructed after these by-laws come into force or provided for a new building, for the purpose of discharging surface or sullage water, shall be constructed of brick, masonry or concrete covered with a plaster not less than half an inch in thickness and containing not less than 33 per cent. of Portland cement or any other cement approved by the Commissioners, or of a natural or artificial stone or of glazed half-round pipes, and shall be of such pattern and size, and laid in such a gradient as may be specified by the Commissioners.

(2) Whenever an open drain is connected with a pipe drain a trap shall be constructed at the end of the open drain immediately above the connection.

Such connection shall be covered by a grating of cast-iron or other suitable material.

(3) Whenever an open drain is connected with a municipal open drain, such connection shall be made with a proper sweeping curve to the outfall, as may be approved by the Commissioners.

#### *Maintenance.*

28. The owner or occupier of any premises, a privy, urinal or drain of which is connected with the municipal underground sewerage system, shall at all times maintain in a proper state of repairs and in a sanitary condition all pipe drains, open drains, traps and fittings, appliances and apparatus connected with the drainage of the premises.

29. The owner or occupier of any such premises shall give every reasonable facility to the Commissioners or any person authorised by the Commissioners in this behalf to inspect the drains, privies, urinals, sinks, bath rooms or other buildings or apparatus connected therewith.

#### *Closed cess-pools or household septic tanks and soak pits.*

30. When any person intends to instal a privy or urinal on the water-carriage system, and there is no municipal underground sewerage system with which it may be connected, he may instal such privy or urinal on the condition that he provides a covered septic tank, and a soak pit or a disposal gallery in conformity with the provisions of by-law 36.

31. A covered septic tank shall be constructed in accordance with the type design to be kept at the municipal office, together with means for disposal of the effluent from the septic tank.

32. The septic tank shall be constructed of watertight masonry, concrete, or earthenware, and shall have a capacity of not less than two cubic feet per user, the number of users being taken as the maximum number of persons who will ordinarily use the privy or urinal connected to the septic tank.

33. The mean for disposal of the effluent of the septic tank shall consist of either—

- (a) a covered soak pit or well, the bottom of which shall be carried down to a porous sandy stratum,—in any case to a depth of not less than two feet below the lowest subsoil water level. Soak pits may be lined or unlined, depending on the nature of the upper strata. An unlined soak pit shall be between eighteen inches and two feet in diameter, and the quantity of liquid run into it shall not be more than one hundred gallons per day. A lined soak pit or well shall have a horizontal cross sectional area of not less than one square foot for every twenty-five gallons of water discharged into it daily; or
- (b) a disposal gallery, which shall consist of pipes of not less than four inches diameter, laid open jointly in a bed of broken stone or brick at a depth of about fifteen inches below ground, and a gradient of not less than two inches per one hundred feet. The length of gallery shall be not less than a figure calculated at the rate of five feet per user when laid in porous sandy subsoil. The gallery may be in one line, or in parallel lines the distance between which is not less than six feet. When laid in heavy subsoil, the length of gallery shall be calculated at ten feet per user, and it shall be laid in two or three separate length fed from a junction manhole so arranged that one or more lengths can be cut off for rest.

Soak pits and disposal galleries shall be constructed in accordance with the type plans to be kept at the municipal office.

34. The sewers connecting from the privies or urinals to the septic tanks shall be constructed of such materials and in such manner as is laid down in by-laws Nos. 14 to 26.

35. The minimum quantity of water which shall be provided for the flushing of the water-closets and urinals is five gallons per user per day.

36. No septic tank, soak pit, or disposal gallery shall be constructed in ground which is liable to flood in the rainy season, and no soak pit or gallery shall be constructed within one hundred feet (horizontal distance) from any common well or tube well which is used as a source of drinking water-supply. The general level of the pipes of a disposal gallery shall not be lower than that of the subsoil water level in the rainy season.

*Model by-laws under clauses (b), (c) and (f) of section 269, regarding privies and urinals of hand removal system.*

1. *Plans of privies and urinals to be submitted to Commissioners.*  
 —(1) Every person who intends to construct any service-privy or service-urinal or to make any substantial additions to, or alterations in, any such privy or urinal, shall send to the Commissioners an application in such form (to be supplied to the applicant free of charge) as may be laid down by the Commissioners.

2. Such application shall be accompanied by,—

- (a) a site-plan, in triplicate unless the Commissioners otherwise direct, drawn to a scale of not less than twenty feet to the inch and showing all surroundings to a distance of fifty feet from the privy or urinal, and
- (b) a detailed plan in triplicate of the privy or urinal with sections and cross-sections, drawn to a scale of four feet to the inch and showing the means of ventilation and any other particulars which may be required by the Commissioners.

2. *Power to Commissioners to refuse to sanction service-privy or service-urinal which will be nuisance.* The Commissioners may, for reasons to be recorded by them in writing and furnished to the applicant free of charge, refuse to grant permission to erect any service-privy or service-urinal which will, in their opinion, be a nuisance.

3. *Regulation of site of service-privies and service-urinals.* (1) No service-privy or service-urinal exceeding eleven feet in height shall be placed in the space required by this Act to be left at the back of a building.

(2) No service-privy or service-urinal situated in, or adjacent to, a building shall be placed at a distance of less than six feet from

- (i) any public building, or
- (ii) any building which is, or is likely to be, used as a dwelling-place, or kitchen, or as a place in which any person is or is intended to be, employed in any manufacture, trade or business.

(3) No service-privy or service-urinal shall be constructed in any premises occupied by a masonry building, or, without the special sanction of the Commissioners, in any other premises which are situated in a street which has been sewered and has an adequate water-supply.

(4) Every service-privy and service-urinal shall be detached from the inhabited portion of any building.

4. *Prohibition of construction of service-privy or service-urinal on upper floor of a building.*—No service-privy or service-urinal shall be placed on any upper floor of a building.

5. *Models and type-plans.*—Models and type-plans of service-privies and urinals approved by the Commissioners, with estimates of the cost of constructing service-privies and urinals in accordance therewith, shall be kept in the Municipal Office, and shall be open to inspection by any person at all reasonable times without charge; but no person shall be bound to construct any service-privy or urinal in accordance with any such model or type-plan if such privy or urinal be constructed in accordance with these by-laws.

6. *Drains.*—(1) A drain shall be provided for every service-privy or service-urinal.

(2) Such drain shall be constructed of some impervious material, and shall connect the floor of the privy or urinal—

- (a) with a drain communicating with a municipal sewer, or

(b) if permitted by the Commissioners, with,—

- (i) an impervious cesspool the contents of which can be removed by hand or by vacuum gulley pit emptying machine, or,
- (ii) a soak pit, as described in by-law No. 33 (a) of the model by-laws, regarding privies, urinals and drains of water-carriage system, or
- (iii) a municipal drain.

7. *Floor*.—The floor of every service-privy and every service-urinal shall—

- (1) be made of cement or other impervious material, or if the owner so desires, of glazed tiles, artificial stone, or glazed sanitary ware;
- (2) be in every part at a height of not less than six inches above the level of the surface of the ground adjoining the privy or urinal, and
- (3) be made with a fall or inclination of at least half an inch to the foot towards the drain specified in by-law 6.

8. *Walls*.—The walls and roof of every service-privy, and the walls and roof (if any) of every service-urinal, shall be made of such materials as may be approved by the Commissioners. Provided that the entire surface of the walls of a privy below the platform shall be surfaced with cement, or other materials as specified in by-law 7 (1).

9. *Platform*.—(1) The platform of every service-privy or service-urinal shall either be plastered with cement or be made of some water-tight non-absorbent material as specified in by-law 7 (1).

(2) In the case of service-privies or urinals with an outlet drain constructed in accordance with by-law 6 (2) (b) (iii), the platform must be sloped towards the aperture with an inclination of at least half an inch to the foot. In all other cases detailed in by-law 6 (2), the platform may, if so directed by the Commissioners, be sloped away from the aperture towards a drain communicating with a municipal drain or a drain connected with a municipal sewer.

10. *Ventilation*.—Every service-privy and every service-urinal situated in, or adjacent to, a building shall have an opening, of not less than three square feet in area, in one of the walls of the privy or urinal, as near the top of the wall as may be practicable and communicating directly with the open air.

\*(Corrected by Ben., L.S.-G., Cir. Nos. 3940-44M., dated the 24th August 1934.)

11. *Construction of privies*.—(1) Every service-privy and service-urinal shall be provided with a movable receptacle for sewage.

(2) The following provisions shall have effect with regard to such privies, urinals and receptacles, namely:—

- (a) the space beneath the platform of the privy or urinal shall be of such dimensions as to admit of a movable receptacle for sewage, of a capacity not exceeding two cubic feet, being placed and fitted beneath the platform in such manner and

- position as will effectually prevent the deposit, otherwise than in such receptacle, of any sewage falling or thrown through the aperture in the platform;
- (b) the privy or urinal shall be so constructed as to afford adequate access to the said space for the purposes of cleansing it and of placing therein, and removing therefrom, a proper receptacle for sewage;
- (c) the said receptacle shall be water-tight, and shall be made of metal, well-tarred earthenware or glazed stoneware and shall be of such construction and shape as the Chairman may consider suitable;
- (d) the door of the opening for the insertion and removal of the said receptacle shall be so made as completely to cover the said opening.

**Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for the purposes mentioned in clauses (i), (ii) and (v) of sub-section (1) of section 370.**

*Ben., Cir. Nos. 5569-5573M. Mun., of 4-12-1934, to Comms.*

I am directed to forward herewith 6 sets of model by-laws framed under clause (a) of section 375 of the Bengal Municipal Act, 1932, regulating the conduct of business in places used for the purposes mentioned in section 370 for circulation to the municipal commissioners in your division for their guidance, and to request that whenever the by-laws proposed to be adopted by the commissioners of any municipality differ materially from these model by-laws on any point, the reason for the variation may be explained when those by-laws are submitted to Government for confirmation under section 506 of the Act.

*Memo. No. 5574M. of 4th December 1934.*

Copy forwarded to the Revenue Department of this Government for information.

1. The licensee shall connect all drains in the place licensed under section 370 intended for the discharge of foul water with a municipal sewer, and the licensee shall not allow any foul water or refuse matter from such place to be discharged into a river, or channel, or any other reservoir of water intended for bathing, drinking or any other domestic purpose.

2. Where there is no sewer, the licensee shall collect the waste water from a place licensed under section 370 in properly constructed cesspools. Such cesspools shall be periodically cleansed or treated by



the licensee in such a way as to render them inoffensive by activated sludge process or the contents thereof shall be otherwise disposed of in such manner as may be required by the Sanitary Inspector, Health Officer, or Chairman.

3. The licensee shall arrange for sufficient supply of water for cleansing the place licensed under section 370.

4. The licensee shall not cause or suffer any skin or hide which by reason of decomposition has become useless for the purpose of leather dressing, to be kept for a longer time than may be necessary in any part of the place licensed under section 370.

5. The licensee shall, at the close of every working day, cause every floor or pavement in the place licensed under section 370 to be thoroughly swept and washed. He shall, at the same time, cause all filth or refuse deposited on the floor or pavement of such place to be collected in suitable vessels or receptacles furnished with closely fitting covers and to be forthwith removed therein from the place.

6. The licensee shall cause the supply of water in every tank or other receptacle used upon the place licensed under section 370 for the washing or soaking of any skin or hide and not being a liming pit to be renewed as often as may be necessary to prevent the emission of noxious or injurious effluvia from the contents of the tank or other receptacles.

He shall cause every such tank or other receptacle to be furnished with a suitable cover and to be kept covered unless it is required to be kept open.

He shall cause every part of the tank or other receptacle, when emptied, to be thoroughly cleansed and shall cause all filth which has been removed therefrom to be forthwith conveyed from the place licensed under section 370 in suitable vessels or receptacles furnished with closely fitting covers, for disposal in a manner approved by the Commissioners.

7. The licensee shall cause all waste lime which has been taken out of any pit upon the place licensed under section 370 to be forthwith deposited in suitable vessels or receptacles or in a properly constructed cart or carriage which, when filled or loaded, shall be covered in such a manner as to prevent the emission of noxious or injurious effluvia from the contents thereof, and shall with all reasonable despatch be removed from the said place for deposit in a place fixed by the Commissioners or disposal in a manner approved by the Commissioners.

8. The licensee shall cause every beam, table, bench, hammer or other implement or apparatus used upon the place licensed under section 370 for the purpose of unhairing, fleshing, breaking, scrapping, rounding, scudding or stocking any hide, butt or pelt or in any other process of his trade, to be cleansed from time to time as often as may be necessary to prevent any accumulation of filth upon the beam, table, bench, knife, hammer, implement, or apparatus.

9. The licensee shall cause all filth which has been splashed upon any part of the internal surface of any wall of any building upon the place licensed under section 370 to be removed by scraping or by some other effectual means of cleansing at least twice in every year, that

is to say, at least once during each of the periods between the first and twenty-first day of March and the first and twenty-first day of September. He shall at the same time cause every part of the internal surface above the floor or pavement of the building to be thoroughly washed with hot limewash:

Provided (i) that the foregoing requirements as to limewashing shall not apply to any part of the internal surface of any building which is painted or covered with impervious material and may be otherwise properly cleansed and (ii) that this by-law shall not apply to any part of any such building which is used only for the storage of dry leather.

10. The licensee shall cause any part of the internal surface of the walls of any building and every floor or pavement upon the place licensed under section 370 to be kept at all times in good order and repair so as to prevent the absorption therein of any liquid filth or refuse or any noxious or injurious matter which may be splashed or may fall or be deposited thereon.

11. The licensee shall cause every part of the interior and exterior of every tub or other vessel or receptacle used upon the place licensed under section 370 to hold a solution of the material known as "puer" to be thoroughly cleansed by scrubbing or by some other effectual means once at least in every week.

12. In a place licensed under section 370 in which the fleshing meat is dried for subsequent sale for the manufacture of such articles as glue or jujubes, the licensee shall cover the drying area by wire netting so as to prevent carrion birds from carrying away the material and dropping it in the vicinity of inhabited areas.

13. A breach of any of the provisions of by-laws 1 to 12 shall be punishable with fine which may extend to fifty rupees and when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the date of first conviction during which the offender is proved to have persisted in the offence.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for the purposes mentioned in clauses (iii), (iv), (vi) and (vii) of sub-section (1) of section 370.*

1. The licensee shall not use or allow to be used any portion of a place licensed under section 370, for residential or sleeping purposes, nor shall use or allow to be used any room within a building, in such place as a living or sleeping room, unless it is separated from the remaining portion of the said place by a substantial wall and contains a window opening directly to the sky and of dimensions not less than one-tenth of the superficial area of the room.

2. The licensee shall not employ any person suffering from any contagious or infectious disease at the place licensed under section 370.

3. The licensee shall store all materials which have been received on the place licensed under section 370 and which are not required for immediate use in the trade in such a manner and in such a condition as to prevent the emission of noxious or injurious effluvia therefrom.

4. The licensee shall thoroughly cleanse and wash at the close of every working day all floors or pavements in the place licensed under section 370 and shall collect all fragments of gut or other matter detached in the process of scraping and all garbage, filth or other offensive matter and place them in suitable vessels or receptacles to be forthwith removed with their covers affixed from the said place to a safe place of disposal appointed by the Commissioners or to be disposed of in a manner approved by the Commissioners. Each such vessel shall be constructed of galvanised iron or of some other non-absorbent material and furnish with a closely fitted cover and shall contain sufficient quantity of a deodorant solution.

5. The licensee shall at the close of every working day thoroughly cleanse with water containing a deodorant every bench, table, tub, vessel, utensil or implement which has been in use during the day in the place licensed under section 370.

6. The licensee shall at the close of every working day remove by scraping or other effectual means all filth or refuse which has been splashed upon any inside portion of the place licensed under section 370.

7. The licensee shall keep every vessel or receptacle in a place licensed under section 370 thoroughly clean even when such vessel or receptacle is not in use.

8. The licensee shall adopt the best practicable means for rendering innocuous all gas or vapour emitted during any trade process either from the articles operated upon or from the contents of any cask, tank, vat, pan, trough or other receptacle upon the place licensed under section 370.

9. The licensee shall thoroughly wash within each first ten days of March, June, September and December of every year the interior of the place licensed under section 370 above the floor or pavement with hot limewash if such place has been in use since the last occasion on which it was so washed:—

Provided that this by-law shall not apply to any part of such place as is covered with impervious material, in which case it shall be sufficient thoroughly to cleanse the same by washing with water.

10. The licensee shall not allow facility for the absorption of any liquid filth, refuse or other noxious or injurious matter in the interior of a place licensed under section 370 by reason of want of repair to the surface thereof.

11. The licensee shall adopt all appliances or means which the Commissioners may from time to time require for the purpose of preventing, abating or minimising any nuisance or annoyance to the neighbourhood or to the public from the use to which a place licensed under section 370 is put and shall at all times maintain them in good and efficient order.

12. The licensee shall trap and connect the drains in a place licensed under section 370 with sewers with the consent of the Commissioners. Where there are no sewers or where permission to connect drains with the existing sewers has been refused by the Commissioners

the licensee shall collect waste water from such place in properly constructed cesspools. These should be periodically cleansed and the contents thereof treated in a manner to render them inoffensive or in such other way as the Commissioners may require before disposal in the way recommended by them.

13. A breach of any of the provisions of by-laws 1 to 12 shall be punishable with fine which may extend to fifty rupees and when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for dyeing mentioned in clause (viii) of sub-section (1) of section 370.*

1. The licensee shall not use any part of a place licensed under section 370 for residential or sleeping purposes, nor shall use any room within a building in such place as a living or sleeping room, unless it is separated from the remaining portion of such place by a substantial wall and contains a window opening directly to the sky and of dimensions not less than one-tenth of the superficial area of the room.

2. The licensee shall not employ any person suffering from any contagious or infectious disease on a place licensed under section 370.

3. The licensee shall store all materials which have been received on the place licensed under section 370 and which are not required for immediate use in the trade in such a manner and in such a condition as to prevent the emission of noxious or injurious effluvia therefrom.

4. The licensee shall thoroughly cleanse and wash at the close of every working day all floors or pavements in the place licensed under section 370 and shall collect all residual waste or other offensive matter and place them in suitable vessels or receptacles to be forthwith removed, with their covers affixed from the said place to a place of disposal appointed by the Commissioners or to any safe place for deposit, wherefrom the same shall subsequently be removed by the Commissioners for disposal.

5. The licensee shall adopt the best practical means for rendering innocuous all vapour emitted during any trade process either from the articles operated upon or from the contents of any cask, tank, vat, pan or other receptacles upon the place licensed under section 370.

6. The licensee shall keep at all times all floors and pavements in a place licensed under section 370 in good order and repair so as to prevent the absorption of any liquid filth or refuse or any noxious or injurious matter which may fall or be deposited thereon.

7. The licensee shall keep the dyeing ground and all the ground surface of the place licensed under section 370 smooth and free from hollows or inequalities so as to prevent any accumulation thereon of any liquid filth or refuse.

8. The licensee shall maintain at all times every drain or means of drainage upon or in connection with the place licensed under section 370 in good order and efficient condition. The licensee shall trap and connect drains of dyeing houses in the said place with sewers with the consent of the Commissioners. Where there are no sewers or where the permission to connect drains with the existing sewers has been refused by the Commissioners, the licensee shall collect the waste water from such place in properly constructed cesspools. These should be periodically cleansed and the contents thereof treated in a manner to fender them inoffensive or in such other way as the Commissioners may require before disposal in the way recommended by them.

9. The licensee shall provide air-tight lids or covers for every tank, cask or other receptacle, whether in daily use or not, kept for the purpose of dyeing in a place licensed under section 370. All such receptacles should be covered with air-tight lids overnight so that mosquitoes may not have the chance of gaining entrance into the receptacles.

10. Whenever dyeing is temporarily suspended the licensee shall fill all unused pots in a place licensed under section 370 with sand and shall cover them mull or guaze tied tightly round their necks to prevent mosquito breeding in them during the period of such suspension.

11. The licensee shall keep every vessel or receptacle in a place licensed under section 370 thoroughly clean even when such vessel or receptacle is not in use.

12. The licensee shall thoroughly wash within each first ten days of March, June, September and December of every year the interior of the place licensed under section 370 above the floor or pavement with hot limewash if such place has been in use since the last occasion on which it was so washed.

Provided that this by-law shall not apply to any part of such place as is covered with impervious material, in which case it shall be sufficient thoroughly to cleanse the same by washing with water.

13. The licensee shall adopt all appliances or means which the Commissioners may from time to time require for the purpose of preventing, abating, or minimising any nuisance or annoyance to the neighbourhood or to the public from the use to which a place licensed under section 370 is put, and shall at all times maintain them in good and efficient order.

14. A breach of any of the provisions of by-laws 1 to 13 shall be punishable with fine which may extend to fifty rupees and, when the breach is a continuing one, with a further fine which may extend to five rupees, for every day after the date of the first conviction, during which the offender is proved to have persisted in the offence.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for purposes mentioned in clause (IX) of sub-section (1) of section 370.*

1. The licensee shall see that a place licensed under clause (ix) of sub-section (1) of section 370 has sufficient room therein for the loading or unloading of materials.

2 A breach of any of the provisions of the by-law shall be punishable with a fine which may extend to fifty rupees, and when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

### *Executive Instructions.*

1. Any license granted under clause (ix) of section 370(1) may impose such conditions as in the opinion of the Commissioners appear necessary for the safety of convenience of the public or any portion of the public.

2. Every application for the grant of a license under these by-laws shall contain full particulars of the situation and boundary of the place for which the license is required and of the materials for which the license is required. An application for renewal shall be accompanied by the license to be renewed.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for the purposes mentioned in clause (XI) of sub-section (1) of section 370.*

1. The licensee shall not store in any place licensed under clause (xi) of sub-section (1) of section 370 kerosine, petroleum, naphtha, or any inflammable oil or spirit in excess of the following quantities, namely:—

*Petroleum.*—Maximum quantity 12 gallons; provided that petroleum is contained in closed tins, drums or bottles.

*Naphtha.*—Maximum quantity 1 quart.

*Spirit.*—Maximum quantity 2 gallons.

*Other inflammable oil.*—Such quantities as the Commissioners may from time to time prescribe; provided that such quantity shall not be in excess of the quantity prescribed under the Indian Petroleum Act, 1899.

2. The licensee shall not store other goods of a combustible nature in a place licensed under clause (xi) of sub-section (1) of section 370 for the storage of petroleum.

3. The licensee shall not open a cask or other receptacle containing petroleum nor shall draw off the oil inside the place in which petroleum is stored.

4. The licensee shall not permit smoking nor introduce any artificial light or fire, in any form, within the place licensed under clause (xi) of sub-section (1) of section 370.

5. The licensee shall keep all petroleum stored in a place licensed under clause (xi) of sub-section (1) of section 370 in properly sealed tins, drums or casks and if any tin, drum or cask be opened, shall close it securely again in such a manner that no vapour may be given off.

6. The licensee shall see that the place used for the storage of petroleum is properly ventilated.

7. The licensee shall keep in stock ready for use sufficient number of fire extinguishers and also dry sand in such quantity proportionate that of the inflammable articles stored as the Commissioners may direct, ready for use in case of any accidental outbreak of fire.

8. A breach of any of the provisions of the by-laws 1 to 7 shall be punishable with a fine which may extend to fifty rupees, and when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

*Model by-laws under clause (a) of section 375 of the Bengal Municipal Act, 1932, for the regulation of conduct of business in places used for the purposes mentioned in clause (XII) of sub-section (1) of section 370*

1. The licensee shall not store more than 1,000 maunds of hay, straw, wood, thatching grass, jute or other dangerously inflammable material in one place under a license issued under clause (xii) of sub-section (1) of section 370.

2. The licensee shall see that the area of the place to be used for storing hay, straw, wood, thatching grass, jute or other dangerously inflammable material is as follows:—

Minimum area.	Maximum quantity of pay, etc., to be stored.		
100 square yard	..	..	50 maunds.
150 .. ..	..	..	100 ..
200 .. ..	..	..	400 ..
500 .. ..	..	..	1,000 ..

3. The licensee shall provide a source of water close by if within 500 feet of any place used for storing hay, straw, wood, thatching grass, jute or other dangerously inflammable materials, there is a place for the storage of petroleum or cloth or articles made of jute or cotton.

4. The licensee shall provide sufficient room in a place licensed under clause (xiii) of sub-section (1) of section 370 for the loading and unloading of materials.

5. The licensee shall leave a clear space of at least five feet between the inflammable material and the nearest walls of any building.

6. The licensee shall enclose by a fence or wall the space occupied by inflammable materials and he shall not permit any person to reside within 10 feet of any stack.

7. The licensee shall not permit any person to smoke, introduce any light into or ignite any substance in any place licensed under clause (xiv) of sub-section (1) of section 370.

8. The licensee shall keep one *ghara* or *balti* filled with water for every five maunds of inflammable materials which he is permitted to store:

Provided that no such licensee shall be required to keep more than 50 *gharas* or *baltis* under this by-law.

9. No licensee shall stack any inflammable material to a height exceeding 15 feet.

10. A breach of any of the provisions of by-laws 1 to 9 shall be punishable with a fine which may extend to fifty rupees and when the breach is a continuing one with a further fine which may extend to five rupees for every day after the date of first conviction during which the offender is proved to have persisted in the offence.

### **Model by-laws for the prevention of the spread of anthrax.**

*Ben., Mun., Cir. Nos. 564-568M. of 21-1-1935, to Commr.*

I am directed to forward herewith a set of model by-laws for the prevention of the spread of anthrax, framed under clause (c) of section 392 of the Bengal Municipal Act, 1932, for circulation to the municipal commissioners in your division for their guidance, and to request that whenever the by-laws, proposed to be adopted by the commissioners of any municipality, differ materially from these model by-laws on any point, the reason for the variation may be explained when those by-laws are submitted to Government for confirmation under section 506 of the Act.

*Memo. No. 569M. of the 21st January 1935.*

Copy forwarded to the Revenue Department of this Government for information.

### *Model by-laws for the prevention of the spread of anthrax*

1. If so required by the Commissioners for the prevention of anthrax, every case of sudden death of an animal shall be reported to them for proper investigation as to the existence of anthrax within the municipal limits.

2. The carcass of an animal known or suspected to have died of anthrax shall not be skinned, but the whole carcass shall be disposed of either by burning completely or by burial in lime. In the latter case the carcass shall be buried in quicklime at a depth of at least six feet below the ground level.

3. Whenever the removal of the carcass of an animal suspected to have died of anthrax to a place of disposal is decided upon, the removal shall be conducted under the strict supervision of the Health Officer or other competent officer appointed by the Commissioners in this behalf with due regard to measures necessary to prevent the spread of infection therefrom.



4. Every stable in which an animal has died of anthrax shall be thoroughly disinfected with suitable material. For lime-wash the Commissioners may require that four ounces of chloride of lime containing 33 per cent. of a available chlorine should be mixed with every gallon of water.

5. The wool, fur or hair of animals known or suspected to have contracted anthrax, if already collected, shall be destroyed at once and the place or places where such materials were kept shall be thoroughly disinfected in the manner laid down in by-law 4.

6. When required by the Commissioners to do so for the prevention of the spread of anthrax, the owners or managers of tanneries or woollen mills shall not dispose of any trade waste or refuse from such tanneries or mills which has been exposed to infection or contagion except by burning or after proper disinfection in the manner specified by the Commissioners.

For the above purpose a mixture of half a pint of commercial carbolic acid per gallon of waste water from tanneries may be used.

7. Whoever commits a breach of any of the preceding by-laws 1 to 6 shall be liable to a fine which may extend to Rs. 50.

**Model by-laws regulating the disposal of sewage, offensive matter, the carcasses of animals and rubbish, under section 269 (a) of the Bengal Municipal Act, 1932.**

*Ben., Mun., Cir. Nos. 4382-4386M. of 14-5-1936. to Comms.*

I am directed to forward herewith a set of model by-laws, under clause (a) of section 269 of the Bengal Municipal Act, 1932, regulating the disposal of sewage, offensive matter, the carcasses of animals and rubbish, for circulation to the municipal commissioners in your division, for their guidance. Whenever the by-laws proposed to be adopted by the commissioners of any municipality on the subject differ materially from these model by-laws, the reason for such variation may be explained when the by-laws are submitted to Government for confirmation under section 506 of the Act.

*Memo. No. 4387M. of the 14th May 1936.*

Copy forwarded to the Revenue Department of this Government for information.

- *Model by-laws regulating the disposal of sewage, offensive matter, the carcasses of animals and rubbish, under section 269 (a) of the Bengal Municipal Act, 1932.*

*Penalties.*

1. *Fines.*—The penalty for the infringement of any of these by-laws shall be—

(a) A fine not exceeding the sum stated at the foot of the by-law.

(b) in the case of a second or subsequent conviction for a similar offence a fine not exceeding the sum (if any) stated in that behalf at the foot of the by-law.

*Disposal of sewage and offensive matter.*

2. *Depositing night-soil.*—No person shall deposit night-soil in any place not approved by the commissioners for the purpose.

Fine, Rs. 10; on a second or subsequent conviction, Rs. 50.

3. *Manure.*—No owner or occupier of any garden or agricultural land shall, without the general or special permission of the commissioners, cause or allow any human excrement to be used for manuring in such garden or land.

Fine Rs. 50.

4. *Access to municipal servants.*—Every owner or occupier of any house, land or premises, from which sewage or offensive matter is not removed by such owner or occupier, shall give free access to the servants of the municipality for the removal thereof within such hours as may have been fixed by the commissioners.

Fine, Rs. 10; on a second or subsequent conviction, Rs. 50.

5. *Removal of offensive matter from markets.*—Every owner, occupier, or farmer of any market shall remove or cause to be removed therefrom, once in every twenty-four hours, any offensive matter, which may have accumulated therein during that period.

Fine, Rs. 10; on a second or subsequent conviction, Rs. 50.

*Disposal of carcasses.*

6. *Disposal of carcasses.*—Every owner or occupier within whose premises any animal dies shall, within six hours after its death, or if the death occurs at night, then within six hours after sunrise, either remove the carcass, at his own expense, to such place as may be set apart by the commissioners for the disposal of such carcasses, or report the death to the conservancy overseer of the ward within which such premises are situated.

Fine Rs. 50.

**Malda District Board by-laws regarding allowing of flow of water used for domestic purposes on the district board roads.**

*Ben. L. S.-G., order No. 2321 L.S.-G. of 30-5-1935, to Commr., Rajshahi.*

With reference to your letter No. 2256M., dated the 28th July 1934, I am directed to convey the approval of Government to the adoption by the Malda District Board of by-law No. 13A as drafted by the Legislative Department. A copy of the by-law as approved is sent herewith. It may now be confirmed by you under section 139 of the Bengal Local Self-Government Act, 1885.

*Draft by-law framed by the district board of Malda under section 139 of the Local Self-Government Act.*

13A. No person shall, except with the permission of the chairman or vice-chairman of the district board or a local board, or of the District Engineer, allow any water used for domestic purposes to flow on to the road so as to damage it or cause inconvenience to the public.

**Model by-laws under section 101A of the Bengal Village Self-Government Act.**

*Ben., L. S.-G., Cir. Nos. 1950-1954 L.S.-G., of 11-3-1935, to Commrs.*

I am directed to refer to Mr. Gurner's circular Nos. 3759-3763-L.S.-G., dated the 18th September 1931, and to say that, after consideration of the opinions received, the Government of Bengal (Ministry of Local Self-Government) are pleased to frame the enclosed set of model by-laws under section 101A of the Village Self-Government Act. Spare copies of the by-laws are enclosed herewith for circulation to the union boards in your division for their guidance.

2. I am to state that for the present only selected union boards of at least five years' standing with a good record of administration should be entrusted with the power of framing by-laws. The model by-laws will be found useful as a guide but union boards will not be bound to adopt any of them which may be deemed to unsuited to local conditions. In order, however, to secure some degree of uniformity in the by-laws adopted by union boards Government consider it desirable that Commissioners should not exercise their powers of sanctioning the by-laws which deviate materially from the model without obtaining the approval of Government.

3. The maximum amount of fine for breaches of by-laws 5, 6, 10, 11 and 12 has been fixed at Rs. 50.

In this connection I am to invite a reference to the following amendment made by clause 36 of the Bengal Village Self-Government (Amendment) Bill, 1935, as passed by the Bengal Legislative Council on the 20th February 1935:—

“36. For section 95 of the said (Village Self-Government) Act the following section shall be substituted namely:—

95. No union bench or union court shall try any case or suit or other proceeding to or in which the local union board or any member thereof is a party or is interested.”

It will be observed that under section 95 of the Act as now amended union benches will be debarred from trying cases arising from the infringement of the union board by-laws.

4. Copies of the Bengal Village Self-Government (Amendment) Bill, 1935, as passed will be supplied after it receives the assent of the Governor-General and is published in the “Calcutta Gazette.”

*Memo. No. 1955 L.S.-G., of the 11th March 1935.*

—Copy, with a copy of the model by-laws, forwarded to the Legislative Department of this Government for information.

**Model by-laws under section 101A of the Bengal Village Self-Government Act.**

The penalty for the infringement of any of these by-laws shall be a fine not exceeding the sum stated at the foot of the by-law.

*Definitions.*

1. In these by-laws, unless there is anything repugnant in the subject or context—

(1) “cattle” means cattle as defined in section 3 of the Cattle-trespass Act, 1871 (I of 1871);

(2) “road” means a road constructed or maintained by union boards under section 31 of the Bengal Village Self-Government Act, 1919, and includes—

(a) a village road;

(b) the slope, berm, borrow pits, and side drains of a road; and

(c) all lands vested in the union board and attached to a road.

*Sanitation, conservancy and prevention of nuisances.*

2. No person in charge of or having control over, any cattle shall allow such cattle to stray or lie on any road or graze so as to obstruct the road.

Fine, Rs. 10.

3. No person shall steep any jute, hemp, bamboos, hides or other offensive matter in any drain, borrow pit or excavation at the side of any road adjacent to any habitation or in any tank or well the water of which is used by the public for drinking or bathing purposes.

Fine, Rs. 20.

4. No person shall commit a nuisance by easing himself on any road, or at the side of or into any river, stream, channel, tank or well which is used by the public.

Fine, Rs. 10.

5. No person shall wash or cause to be washed in any tank or water course or any other receptacle for water used by the public for drinking or bathing purposes any clothes, bedding or other articles which have been used by a person suffering from any infectious, contagious or loathsome diseases.

Fine, Rs. 50.

6. No person shall allow the water of any privy or any matter offensive or deleterious to health to flow on any road or into any tank, well or water course.

Fine, Rs. 50.

7. No person shall slaughter any animal or clean any carcasses or cure hides on or within 50 yards of any road.

Fine, Rs. 20.

8. No person shall place or burn or bury any corpse or the dead body of any animal on or within 50 yards of any road provided that nothing herein contained shall affect the deposit and burning or burial of corpses in a recognised burning or burial ground.

Fine, Rs. 20.

*Control of drains and other conservancy works (not under the control of any other authority).*

9. No person shall deposit, or cause to be deposited in or on the side of any public drain any substance or thing which may cause obstruction to such drain.

Fine, Rs. 10.

10. No person shall construct any building over any public drain.

Fine, Rs. 50.

*Prevention of encroachments on roads.*

11. No person shall except temporarily and with the permission in writing of the union board, encroach on any part of a road by cultivating crops thereon or by exposing thereon any goods for sale or by placing thereon any substance or material or by erecting a building, fence or embankment thereon or in any other way.

Fine, Rs. 50.

12. Any person in possession of, or having control over, any plants, trees or hedges which obstruct or overhang any road shall, if so required, by the union board at a meeting, cut down, prune or trim such plants, trees or hedges, within the period and in the manner prescribed in a notice signed by the President of the union board in this behalf and served upon such person.

Fine, Rs. 50.

**Model by-laws under section 434 for regulation of dairy and milk-supply.**

*Ber., Mun., Cir. Nos. 2425-2429M. of 4-4-1935, to Commrs.*

I am directed to forward herewith a set of model by-laws regulating dairies and milk-supply, framed under section 434 of the Bengal Municipal Act, 1932, for circulation to the municipal commissioners in your division, for their guidance, and to request that whenever the by-laws proposed to be adopted by the commissioners of any municipality, differ materially from these by-laws on any point, the reason for the variation may be explained when those by-laws are submitted to Government for confirmation under section 506 of the Act.

*Memo. No. 2430M. of the 4th April 1935.*

Copy forwarded to the Revenue Department of this Government for information.

*Model by-laws under section 434 for regulation of dairy and milk-supply.*

1. *Registration of dairymen and dairies.*—The municipal commissioners may require by public notice the registration of all dairymen or persons selling milk and of all dairies within the municipality, within such period as may be fixed by them; whereupon no person shall keep any dairy within the area administered by the commissioners, unless it has been registered, or carry on the business or trade of cow-keeper, dairyman or purveyor of milk, unless he is registered as such therein:

Provided that a person who sells milk of his own cows or buffaloes in small quantities to his workmen or to his neighbours for their convenience need not be so registered.

*Note.*—In these by-laws the term cow-keeper includes a keeper of buffaloes.

2. No dairy or milk shop shall be registered until the premises in which such trade is carried on have been inspected by the Health Officer or Sanitary Inspector or any competent officer appointed by the commissioners for the purpose and until the commissioners are satisfied with the arrangements for lighting, ventilation, drainage, conservancy, water-supply and general sanitary condition of such premises.

3. *Inspection.*—All dairies within a municipality shall be open to inspection at all times by the commissioners or by the Health Officer, Sanitary Inspector or a person or persons authorised in this behalf at all hours of the day and night.

4. *Contamination of milk.*—No cow-keeper or dairyman or purveyor of milk or occupier of a milk store or milk shop shall—

(a) allow any person residing or employed in or about the premises, suffering from a dangerous or infectious disease or having recently been in contact with a person so suffering, to milk cattle or to handle vessels used for holding or keeping milk or in any way to take part or assist in the conduct of the trade or business of the cow-keeper or dairyman or purveyor of milk or occupier of a milk store or milk shop, so far as regards the production, distribution or storage of milk, or

(b) if himself so suffering, or having recently been in contact with a person so suffering, milk cattle or handle vessels used for containing milk or in any way take part in the conduct of his trade or business so far as regards the production, distribution or storage of milk, until in each case all dangers therefrom of the communication of infection to the milk or of its contamination has ceased.

5. The cow-keeper or dairyman or purveyor of milk shall, when so required by the commissioners, the Health Officer, Sanitary Inspector or any other person authorised in this behalf, furnish the names and address of his customers and the sources of supply of milk to his establishment.

6. *Existence of disease among cattle.*—If at any time cattle plague, pleuro-pneumonia, foot and mouth disease, anthrax, tuberculosis or any disease of the udder exist among the cattle in a dairy or cattle-shed, the dairyman or cow-keeper shall forthwith report such occurrence to the commissioners and shall not—

- (a) mix the milk of the diseased cattle therein with other milk,
- (b) use or sell such milk for human consumption;
- (c) use or sell such milk for consumption by any animal unless and until it has been boiled.

7. *Storage, conveyance and distribution of milk.*—No receptacle which is incapable of being readily cleansed, shall be used for the storage or conveyance of milk.

8. Every receptacle used for the storage or conveyance of milk shall be—

- (i) marked with the name and address of the owner;
- (ii) provided with a lid without openings and so constructed and fitted as to prevent the access of dirt, dust, water, or of milk which has been splashed above the lid.

9. No such receptacle shall be opened during transit, except for the purpose of checking and sampling the milk.

10. Where milk is delivered in bottles, such bottles must be filled and closed on registered premises, and not thereafter tampered with before delivery to the consumer.

11. Every person engaged in the conveyance or distribution of milk shall take all practicable precautions to prevent the milk from being contaminated.

12. Vehicles used for the conveyance of milk shall be kept clean and no live animal shall be conveyed or carried at the same time as the milk.

13. *Ventilation and lighting.*—Every cattle-shed and every building used for keeping or storing milk (other than a cold store) shall be provided with a sufficient area of windows or external openings communicating directly with the external air in order to secure adequate lighting and ventilation.

14. *Lighting.*—Places in which milking is carried on after dark, shall be provided with adequate artificial lighting.

15. *Air-space.*—No cow-keeper or dairyman shall allow any shed to be occupied by a larger number of animals than will leave not less than eight hundred feet of air-space for each cow or buffalo, provided as follows:—

- (a) in calculating the air-space for the purpose of this by-law, no space shall be reckoned which is more than 16 feet above

the floor; but if the roof or ceiling is inclined, then the mean height of the same above the floor may be taken as the height thereof for the purposes of this by-law;

- (b) any cattle-shed constructed and used before the date of the enforcement of this by-law shall be exempted from its operation until two years after that date.

16. *Receptacles for water.*—All receptacles for the storage or conveyance of water shall be kept clean. A dairyman or cow-keeper shall ensure that the drinking water for cows is protected from contamination.

17. *Water-supply.*—Every person in charge of a dairy shall cause it to be provided with an adequate supply of good and wholesome water for cleansing such dairy or any vessel that may be used therein for containing milk, and for all other reasonable and necessary purposes in connection with the use thereof.

18. *Cleanliness of cattle-shed.*—No cow-keeper or dairyman or purveyor of milk or occupier of a milk store or milk shop shall use or permit to be used any milk store or milk shop in his occupation as a sleeping apartment or for any purpose incompatible with the cleanliness of the milk shop or milk store and of the milk vessels and the milk therein or in any manner likely to cause contamination of milk therein.

19. No cow-keeper or dairyman or purveyor of milk shall keep swine or poultry in any cattle-shed or other building used by him for keeping cows or in any milk store or other place used by him for keeping milk for sale.

20. Every cow-keeper and dairyman shall cause every part of the interior of every cattle-shed or dairy in his occupation to be thoroughly cleansed from time to time and as often as may be necessary to secure that such places shall be at all times reasonably clean.

21. Every cow-keeper and dairyman shall cause the ceilings and the walls of the cattle-shed or dairy in his occupation to be properly lime-washed at least twice every year and at such other times as may be necessary:

Provided that this requirement shall not apply to such ceilings and walls for which lime-washing is unsuitable.

22. Every cow-keeper and dairyman shall cause the floor of every such cow-shed or dairy to be thoroughly washed, and all dung and offensive matter accumulating inside such shed or dairy to be swept and removed as often as may be necessary but not less than twice every day.

23. *Cleanliness of milk shop and milk store.*—Every occupier of a milk store or shop shall cause every part of the interior to be thoroughly cleansed from time to time and as often as may be necessary to maintain it in a thorough state of cleanliness.

24. *Health and inspection of milch animals in dairies.*—The commissioners shall cause to be made such inspections of dairy cattle as may be necessary.



**25. Cleanliness of milk vessels.**—Every cow-keeper or dairyman shall from time to time and as often as may be necessary cause every milk vessel that may be used by him for the sale, conveyance or storage of milk to be thoroughly cleansed with steam or clean boiling water and shall otherwise take all proper precautions for the maintenance of such milk vessel in a constant state of cleanliness.

On every occasion when any such vessel shall have been used to contain milk or shall have been returned to him after having been out of his possession, he shall cause such vessel to be forthwith so cleansed.

**26. Protection of milk against infection or contamination.**—Every purveyor, seller or retailer of milk shall take all reasonable and proper precaution in connection with the storage and distribution of milk and otherwise to prevent exposure of milk to any infection or contamination.

**27.** No purveyor, seller or retailer of milk shall deposit or keep any milk intended for sale—

(a) in any room or place where it would be liable to become infected or contaminated by impure air or by any offensive, noxious or deleterious gas or substance or by any noxious or injurious emanation, exhalation or effluvium;

(b) in any room used as a kitchen or living room;

(c) in any room or building or part of a building communicating directly by door, window or otherwise with any room used as a sleeping room or with a water-closet, earth-closet, privy, cesspool or receptacle for ashes or with a room in which there may be any person suffering from an infectious or dangerous disease or which may have been used by any person suffering from any such disease and may not have been properly disinfected; or

(d) in any room or building or part of a building in which there is any untrapped inlet to any drain.

**28.** No cow-keeper or dairyman shall allow any milch cattle belonging to him or under his care or control to be milked for the purpose of obtaining milk for sale unless at the time of milking—

(a) the udder and teats of such cow are thoroughly clean; and

(b) the hands of the person milking such animals also are thoroughly clean and free from all infection and contamination.

**29.** All dirt shall be removed from the flanks of the cattle before milking is begun, and every person engaged in milking shall keep his body and clothing clean.

**30.** The floor of every milk store or milk shop shall be rendered impervious and sloping to a channel, so constructed as to prevent any liquid matter from accumulating; and to lead it directly to drain outside the building.

**31.** The owner of a milk store or shop shall cleanse as often as necessary all fittings, floors and furniture.

32. No dairyman or seller of milk shall sell infected or contaminated milk, or milk suspected to be infected or contaminated.

33. No cow-keeper or dairyman shall keep in the shed in which the cattle are milked any animal the milk from which there is reason to believe has conveyed or is likely to convey infectious disease.

34. It shall be lawful for the commissioners to close, for such period as they may think fit, a dairy from which infected or contaminated milk is supplied for sale.

35. *Penalty.*—The penalty for the breach of any of the by-laws 3 to 22 and 25 to 33 shall be a fine which may extend to fifty rupees and when the breach is a continuing one, with a further fine not exceeding five rupees for every day after the date of first conviction during which the offender persists in the offence.

## Motor Vehicles.

### Cancellation of the prohibition of the use of motor vehicles without pneumatic tyres.

*Ben., Mun., Cir. Nos. 3449-3453M. of 10-8-1932, to Commrs.*

I am directed to refer to Government order Nos. 3446-3447M., dated the 10th August 1932 [a copy of which is enclosed], and to say that for the reasons stated therein, Government are pleased to cancel No. 10A of model by-laws for municipalities forwarded with circular Nos. 156-160M., dated the 20th January 1928.

I am also to invite reference to circular Nos. 4887-4891 L.S.-G., dated the 30th November 1927, and to request that no more sanction should be given by you to the adoption by any district board of (c) of draft by-laws forwarded with it.

[ ] Except Presidency and Burdwan Commissioners.

*No. 3448M., dated the 10th August 1932, from the Secretary to the Government of Bengal, Local Self-Government Department, to the Secretary, Motor Industries Association, Calcutta.*

With reference to your letters, dated the 6th and 21st June 1932, regarding the by-law of the South Dum Dum Municipality prohibiting the use of motor vehicles without pneumatic tyres on municipal roads, I am directed to say that the matter is under consideration.

*No. 1951M., dated the 22nd November 1932, from the Commissioner of the Presidency Division, to the Secretary to the Government of Bengal, Local Self-Government Department.*

With reference to Government order Nos. 3446-3447M., dated the 10th August 1932, regarding model by-law No. 8A, prohibiting the use of motor vehicles not fitted with pneumatic tyres on district board and municipal roads, I have the honour to forward herewith copy of a

letter No. M. 46-297—32, dated the 28th October 1932, from the Magistrate of the 24-Parganas, from which it would appear that as the provision of a higher rate of taxation has been made in the Motor Vehicles Tax Act for motor vehicles with solid tyres, which will itself discourage the use of solid tyres, he is of opinion that the by-laws which have so far been adopted by some municipalities need not be enforced and those which have not adopted the same should not be required to do so until the operation of the Motor Vehicles Tax Act has been fully watched and examined. I agree with the views of the Magistrate.

*No. M. 46-297—32, dated the 28th October 1932, from the Magistrate, 24-Parganas, to the Commissioner of the Presidency Division.*

With reference to your circular memorandum Nos. 1588-1592M., dated the 13th September 1932, forwarding a copy of Government letter Nos. 3446-3447M., dated the 10th August 1932, regarding model by-law No. 8A, prohibiting the use of motor vehicles not fitted with pneumatic tyres on district board and municipal roads, I have the honour to state that the by-law referred to was accepted by the Rajpur, South Dum Dum, Basirhat and Bhatpara Municipalities, but the Rajpur Municipality, as reported, did not take any action under the by-law and never prohibited the use of motor vehicles not fitted with pneumatic tyres on municipal roads nor closed any road to motor vehicles. There are very few municipalities in the district which have adopted the by-law. The penalty for motor vehicles fitted with solid tyres is provided in the Motor Vehicles Tax Act by the provision of a higher rate of taxation which will itself discourage the use of solid tyres. In view of this, the by-law adopted in the municipalities so far may not be enforced for the present and it may not be allowed to be adopted in any other municipalities until the operation of the Motor Vehicles Tax Act has been examined as to its result.

*Memo. No. 2175M., dated the 23rd December 1932, by the Commissioner of the Presidency Division.*

Copies of the following are submitted to the Government of Bengal, Local Self-Government Department, for information, in continuation of this office letter No. 1951M., dated the 22nd November 1932.

**Standardisation of the form of summons under section 4 (4) of the Motor Vehicles Act, 1932.**

*Ben., L.S.-G., order No. 4923L.S.-G., of 10-10-1934, to Press and Forms Manager.*

In forwarding herewith a copy of a letter No. 4933, dated the 29th June 1934, from the Commissioner of Police, Calcutta, to the Secretary to the Government of Bengal, Political Department, and of its enclosure, I am directed to say that Government approve of the standardisation of the form of summons for asking motor car owner

to appear for payment of tax and penalty as required by section 4 (4) of the Bengal Motor Vehicles Tax Act, 1932. The form may be included in the Calcutta Police Series of Standard Forms and assigned Bengal Form No. 4700. Two thousand copies of it may be printed and supplied to the Deputy Commissioner of Police, Public Vehicles Department, Calcutta.

The form of summons attached may be taken as the working sample of the form in question.

*Memo. No. 4924L.S.-G., dated the 10th October 1934.*

Copy forwarded to the Commissioner of Police, Calcutta, for information, with reference to his letter No. 4933, dated the 29th June 1934, to the Political Department of this Government.

*Memo. No. 4925L.S.-G., dated the 10th October 1934.*

Copy, with copy of Police Commissioner's letter No. 4933, dated the 29th June 1934, forwarded to the Political (Jails) Department of this Government for information.

*No. 4933, dated the 29th June 5th July 1934, from the Commissioner of Police, Calcutta, to the Secretary to the Government of Bengal, Political (Jails) Department.*

I have the honour to state that certain new forms, the samples of which are enclosed, have been introduced to facilitate work in the Motor Vehicles Department and Tax Section. These forms have hitherto been printed in the Gestetner machine and Calcutta Police Office Press to meet the emergent demands.

2. The forms are necessary and as their consumption is over 2,000 a year, I request that early sanction may be accorded to their standardisation and their printing by the Press and Forms Manager, Bengal, as laid down in Government order No. 3511, dated the 5th April 1924.

A list showing the descriptions of the forms, with the quantities required for the next annual supply noted against each, is submitted herewith.

*List of new form for standardisation.*

Serial No.	Description of forms.	Quantity required from 1st September 1934 to 31st August 1935.
3.	Letter to motor car owners to appear for payment of tax and penalty.	2,000

**SUMMONS.**

*Under the provisions of sub-section (4) of section 4 of Act I of 1932 as amended.*

Tax Case No. \_\_\_\_\_, dated \_\_\_\_\_

To \_\_\_\_\_

Owner of \_\_\_\_\_

Whereas it appears that the above mentioned vehicle of which you are the registered owner was found plying on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_ 193 \_\_\_\_\_ without having paid the Bengal Motor Vehicles Tax due thereon. I hereby direct you to appear personally before me at 38, Beltolla Road, at 2 p.m. on the \_\_\_\_\_ day of \_\_\_\_\_ 193 \_\_\_\_\_ to pay the tax due on the vehicle and show cause why a penalty under the provisions of sub-section (4) of section 4 of the Act should not be levied in addition to the tax due.

*Taxing Officer,  
Calcutta Area.*

The \_\_\_\_\_ 193 \_\_\_\_\_

**Reduction of motor-car allowance to establishments under the administrative control of the Department.**

*Ben., Mun., Cir. Nos. 6490-6494M. of 20-11-1935, to Commsrs.*

I am directed to refer to Finance Department resolution No. 5990-F., dated the 15th December 1931, regarding reduction of the rates of conveyance allowances of officers under the Local Government and to say that the Government of Bengal have since decided that with effect from 1st October 1935, the reduction of motor car allowance to Rs. 80 should be applied similarly to establishments in the employ of local authorities under the administrative control of this department, the pay of which is fixed with your sanction or with the sanction of Government and met wholly or in part by contribution from Government.

I am accordingly to request that you will be so good as to ask local authorities in your division to take necessary steps in the matter.

2. I am further to request that the attention of local bodies may be drawn to the action taken by Government in the matter of reduction of motor car allowance, with the intimation that application from local bodies for similar reduction of allowance of their officers will be considered on their merits by Government where their approval is required under the law.

**Memo. No. 6495M. of the 20th November 1935.**

Copy forwarded to the Accountant-General, Bengal, for information.

**Utilisation of the unspent portion of the motor vehicles tax grant during next financial year.**

*Ben., L.S.-G., Cir. Nos. 8660-64 L.S.-G., of the 3rd February 1936, to Commsr.*

I am directed to refer to this department circular No. 3354 L.S.-G., dated the 28th July 1934, and to say that this year also some local bodies have asked for Government sanction to the utilisation of the unspent balance of the last year's motor vehicles tax grant during the current financial year. Government do not encourage this practice, but in consideration of the fact that the grants out of proceeds of motor vehicles tax for 1933-34, were distributed to local bodies in the latter part of the year 1934-35, they are pleased to direct that the local bodies, which failed to spend the grant during the year ending 31st March 1935, may be allowed to utilise the unspent balance in 1935-36 on the works (uncompleted or not begun) for which the grant was allotted. I am to request you to communicate the decision of Government to the local bodies in your divisions.

*Memo. No. 865 L.S.-G. of the 3rd February 1936.*

Copy forwarded to the Accountant-General, Bengal, for information.

## Municipal Act.

### Interpretation of the term "official designation" in section 14 of Municipal Act, 1884.

*Ben., Munl., No. 147 T.M., and Cir. No. 2 T.M of 24-4-1903, to Commsr.*

In April 1903 the Bengal Government circulated the following Opinion, dated the 7th April 1903, of the Legal Remembrancer regarding the interpretation of the words "official designation" in section 14 of the Bengal Municipal Act, III, 1884, with the remark that the opinion was accepted by Government and should be acted on in future:—

#### *Opinion.*

In my opinion the words "official designation" are not restricted to officers appointed or paid by Government. Nor do they extend, as the Commissioner of Burdwan suggests, to the holder of any office, such as that of manager of a Mill. In Wharton's Law Lexicon the word "official" is defined to mean "pertaining to a public charge." In the Century Dictionary the word "official" as an adjective is no doubt defined to mean "pertaining to office" but as a noun it is interpreted to mean "one who is invested with an office of a public nature; one holding a civil appointment; as a Government official, a railway official."

I think, therefore, that the Government may, if it thinks proper, appoint a person holding a public office to be a Municipal Commissioner by his official designation under section 14 of the Bengal Municipal Act whether the officer is a Government servant or not. If an official, though not a Government servant, is clearly a public servant within the meaning of section 21 of the Indian Penal Code, there need be no doubt that his office is of a public nature. In this view of the question a railway officer is an official, since by section 137 of the Railways Act (IX of 1890) every railway servant is declared to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

In case of doubt as to whether a particular office is of a public nature or not, the appointment should, I think, be made by name.

### **Distilleries are not taxable under section 261 of Municipal Act, 1884.**

*Ben., Munl., No. 4515 M. of 20-12-1895, to Board.*

I am directed to acknowledge the receipt of your letter No. 1111B., dated the 4th December 1895, with which you submit copies of correspondence relating to the resolution of the Commissioners of the Monghyr Municipality, deciding that a distillery is an offensive trade, and should, agreeably to the instructions conveyed in Government Circular No. 6T.M., dated the 10th June 1895, be taxed as such rates as would tend to discourage the establishment of such industries within municipalities, and referring for the orders of Government the question whether, in the circumstances, the Government distillery at Monghyr is, or is not, taxable under section 261 of the Bengal Municipal Act. The Board request that very distinct orders may be issued by Government on the subject.

2. In reply, I am to say that the Municipal Commissioners of Monghyr should be informed that a distillery is not taxable under section 261 of the Bengal Municipal Act, and that if any action is taken by that body tending to interfere with the management of the local distillery, the Commissioner of the Division should deal with it under section 63, and report his order for the confirmation of Government.

3. With regard to paragraph 2 of your letter, I am directed to observe that section 84 of the Excise Act refers only to the sale of excisable articles, and not to manufacture.

### **Remission of municipal taxes in cases of voluntary demolition of holdings.**

*Ben., Mun., Cir. Nos. 502-506 T.—M. of 1-11-1926, to Commrs.*

I am directed to forward for your information and communication to the Chairmen of Municipalities (except Darjeeling) in your division, a copy of an opinion expressed by the Legal Remembrancer on the subject of granting remission of municipal taxes in the case of voluntary demolition of holdings.

*Opinion of H. C. Laddell, Esq., C. I. E., I. C. S., Superintendent and Remembrancer of Legal Affairs, Bengal, dated the 22nd April 1924.*

The Municipality may levy a "rate on the annual value of holdings," section 85(b); a "holding" is defined in section 6(3) of the Act—it does not depend on the presence or absence of a house, though that fact may be of the utmost importance in assessing the annual value of the holding. The Commissioners have to determine the valuation of all holdings (section 96): on some holdings no rate is to be imposed, e.g., where annual value is under Rs. 6. (where the holding is used as a place of public worship, burning ground, etc.).

The first proviso of section 101 and the provisions of section 104 seem clearly to indicate that in determining the valuation of a holding the land comprised in the holding to be considered as separate from a building or house, [i.e., hut, shop, warehouse, or building, vide section 6(3)] which stands on the land within the holding; the annual value of a holding in such a case would be in substance (and might advantageously be shown as) a percentage on the cost of the house plus a reasonable ground rent for the land in the holding.

The presence of a house may give the holding by far the greater part of its value, but it is clear from section 107 that the voluntary demolition of the house would give the owner *no claim* to reduction of the valuation of the holding: there seems to be no difference in principle between voluntary demolition of a part of a house and the voluntary demolition of the whole house.

If the Commissioners think the case is one "productive of excessive hardship" then and then only could they reduce the amount payable on account of the holding, but before actually remitting the whole rate they would naturally consider what the reasonable ground-rent of the land comprised in the holding would be without the house. The voluntary demolition of a house does not ipso facto exonerate the owner of the holding from paying the rate assessed on the holding, nor would it in ordinary circumstances justify the complete remission of the rate assessed by the Commissioners on the annual value of the holding.

#### **Legal treatment of applications for review of, or exemption from, municipal assessment.**

*Ben., Mun., No. 40 T.—M. of 3-5-1927, to Commr., Dacca.  
(Copy to other Commrs.)*

I am directed to refer to your letter No. 2996 J, dated the 4th June 1926, forwarding a copy of letter No. 306, dated the 1st May 1926, from the Chairman, Dacca Municipality.

2. The Chairman, Dacca Municipality, enquires—

- (a) if remission or exemption on applications made under section 113 of the Municipal Act are allowable;
- (b) if so, can they have retrospective effect;
- (c) if applications are entertainable if submitted after one month from the date of publication of a notice under section 112;



(d) if section 106 must be construed as giving retrospective effect to legalise remission or exemption.

3. In reply, I am to inform you that Government are advised that the following are correct interpretations of the Act:—

- (a) It is not possible under section 113 to exclude an application based on the ground of excessive hardship asking for review of or exemption from assessment. The section does not, however, refer to remission. Remission applications are, therefore, not allowable under this section.
- (b) Remission with retrospective effect (i.e., remission of amounts already paid) has not been provided for specially and does not appear to be necessarily implied. Remissions cannot, therefore, be granted with retrospective effect.
- (c) Applications under section 113 are receivable, (a) within a month from publication of notice under section 112, or (b) 15 days after service of the first notice of demand for payment at the rate in respect of which the application is filed, whichever period shall expire first. Subsequent applications will be barred and even if presented cannot be received unless the Commissioners extend the time for good cause shown.

However, even after the expiry of the above period an application might be made under section 106 to the Commissioners.

- (d) No retrospective effect is provided for in section 106 and refunds of sums already paid cannot be ordered under this section.

The statement of the Chairman to the effect that "arrear dues cannot under section 130 be written off as irrecoverable if the applicant is the owner of a holding or part of it" appears to be incorrect.

4. In view of the above decisions, it is not possible to insist that reductions of tax on the ground of hardship must be dealt with under section 106.

#### **Government order on certain points raised under the Bengal Municipal Act.**

*Ben., Mun., No. 173 T.—M. of 27-9-1927, to Commr., Dacca.*

I am directed to refer to your No. 6012 J., dated the 2nd September 1927, forwarding a copy of letter No. 5892 J., of 9th August 1927, from the District Magistrate of Faridpur which refers for the decision of Government certain points raised by the Chairman of the Faridpur Municipality, and to convey the following remarks of Government.

*Points I and II.*—In rule 15 of the model rules of business the "decision" of the President which, it is stated, shall be final obviously refers to his refusal to put the motion or amendment in question to the meeting with or without modification. Such a decision must be regarded as final for that meeting only; the matter may be out of order at the particular meeting, but may be in order if brought forward at a later meeting.

*Points III to VII.*—Government are advised that section 58 should be construed in a reasonable sense. The obvious intention of the

section is to deal with cases in which the interests of a Municipal Commissioner as a private individual conflict with the interests of the rate-payers as a whole. The provisions of the section should not be held to debar the Chairman from voting on a question which concerns the manner in which he conducts the proceedings of meetings.

*Points VIII to X.*—These deal with matters of local interests, and sufficient materials have not given to enable Government to pronounce any opinion on the issues involved. The matters seem to be such as should be settled between the Chairman and the Commissioners. If the latter so desire they can pass resolutions under section 44 to keep the power of entering into agreements of the kind in question in their own hands.

*Points XI and XII.*—The law is not altogether clear. On the one hand, under section 118 each instalment of tax is deemed to be due on the first day of the quarter in respect of which it is payable, and there is no provision by which the Municipal Commissioners can realize only a portion of the tax from the person who was in occupation at the beginning of the quarter. On the other hand, there is section 94 by which a new occupier is only liable to assessment from the date on which his occupation of the holding commenced. The fairest and most convenient course is for the person who is in occupation of the holding at the beginning of a quarter to pay the whole quarter's tax, realizing a proportionate amount from the next occupant if the holding changes hands during the quarter. When both persons concerned are Government officers there should be no difficulty in making an arrangement of this kind. If the Municipal Commissioners serve bills promptly at the beginning of a quarter according to their account rules they should have no difficulty in realizing the whole quarter's demand from Government servants.

### **Interpretation of sections 29, 30 and 106 of the Bengal Municipal Act.**

*Ben. Munpl. letter Nos. 329-333T.—M. of 5-10-1931, to Commrs.*

In continuation of this Department's Circular letter Nos. 42-46T.—M., dated the 28th April 1930, I am directed to enclose copies of the decision of the High Court in the undernoted cases on the subject of the interpretation respectively of sections 29, 30 and 106 of the Bengal Municipal Act, and to request that attention of all municipalities may be drawn to these rulings for information and guidance:—

- (1) Section 29, Bengal Municipal Act—Vishnupur Municipality *versus* Sarat Chandra Choudhury (35 Calcutta Weekly Notes 373).
- (2) Section 30, Bengal Municipal Act—Nadia Mills Company, Limited *versus* Siddeswar Chatterji (I. L. R. 56, Calcutta, 280).
- (3) Section 106, Bengal Municipal Act—Municipal Commissioners of Dacca *versus* Srimati Hemangini Dassi (34 Calcutta Weekly Notes 1013).

2. I am further to say that it has been noticed recently that in the absence of any instructions for the communication to Government of cases of this kind, High Court rulings of considerable importance in

the working of the Bengal Municipal Act have escaped notice of this Department or come to notice only accidentally after considerable delay. I am, therefore, to request that steps may be taken to draw the attention of Government to the final decision of any case effecting the Bengal Municipal Act, 1884, the Food Adulteration Act, 1919, or other Acts with which the Local Self-Government are administratively concerned which may go up to the High Court, and that municipalities engaged in such litigation may be requested to give the necessary information to the District Magistrate from time to time.

3. I am to explain that the object of this request is only to enable the Local Self-Government Department to co-ordinate information about such rulings and draw the attention of municipal boards to them. It does not imply in any way participation in such litigation or deviation from the existing rules on the conduct of civil suits by municipalities.

(35 Calcutta Weekly Notes 373.)

## CIVIL REVISIONAL JURISDICTION.

REV. No. 886 OF 1930.

Bishnupur Municipality by its Chairman, Hemchandra Kar.

*Petitioners.*

*versus*

Sarat Chandra Chaudhuri, *Opposite Party.*

The Judgment of the Court was as follows:—

This Rule is directed against an order passed by the learned Small Cause Court Judge of Bishnupur by which he dismissed the Petitioner's suit for recovery of arrears of municipal tax. The ground on which the learned Judge dismissed the Petitioner's suit was that the suit had not been properly framed inasmuch as the suit had been framed in contravention of the provisions of section 29 of the Bengal Municipal Act and there had been an amalgamation to two holdings in respect of which the arrears had been claimed in the suit.

On behalf of the Petitioners it was, first of all, contended that if there had been any violation of the provisions of section 29 of the Bengal Municipal Act, it was only a clerical mistake and the suit ought not to have been dismissed on that ground. It appears that the suit was instituted in the name of the Bishnupur Municipality and not in the name of the Chairman on behalf of that Municipality as enjoined by section 29. It appears also that the plaint was signed and verified by one Hem Chandra Kar who described himself as the Chairman of the Bishnupur Municipality. It was contended on these facts that if in the title of the plaint Bishnupur Municipality was written as the Plaintiff instead of Hem Chandra Kar, the Chairman of the Bishnupur Municipality, it was nothing but a clerical error pure and simple. ~~But~~ this contention that it is nothing but a clerical error comes, in my opinion, too late in the day. The record shows that an objection was

taken by the Defendant in his defence on the ground that the frame of the suit was defective, and the admitted defect in the frame of the suit must have been brought to the notice of the Petitioner. But the Petitioner—and for the matter of that any officer of the Bishnupur Municipality—appears to have taken no notice of the defect pointed out or to have taken any steps to rectify the mistake which, it is alleged before me now, was nothing but a clerical error. The learned Small Cause Court Judge held this suit to have been improperly framed on another ground and that ground was that the suit had been brought in respect of the tax of two distinct and separate holdings which were not contiguous. The Advocate for the Petitioner contended that although the suit was in respect of two holdings, namely, holding No. 831 and holding No. 838, no tax has, as the matter of fact, been claimed for one of these two holdings, namely, holding No. 831. The plaintiff, however, does not show that nothing was claimed in respect of the holding No. 831. In this connection, my attention was drawn by the learned Advocate for the Petitioners to some evidence in the case, the evidence of the Tax Daroga of the Bishnupur Municipality. This witness no doubt says that there had been remission of the tax on holding No. 831 but his evidence does not show that the tax on holding No. 831 had been remitted for the whole period in respect of which the arrears had been claimed. The two grounds on which the learned Small Cause Court Judge held the suit had not been properly framed cannot, in my opinion, be successfully met.

The result is that the Rule is discharged with costs hearing-fee, one gold mohur.

(*Indian Law Reports, 36 Calcutta 280.*)

#### APPELLATE CIVIL.

Nuddea Mills Company, Limited.

*versus*

Siddeswar Chatterjee.

The Judgment of the Court was as follows:—

Suhrawardy and Cammiade, JJ. This appeal arises out of a suit brought by the plaintiff respondent against the appellant company and the Naihati Municipality for a declaration of the plaintiff's right of way over a certain public road called Radhaballav Road and for other consequential reliefs. The plaintiff's case is that long ago a temple was built and dedicated by one of his ancestors on Radhaballav Road a little way from another public road called Ferry Fund Road connected by Radhaballav Road. The plaintiff further claimed easement of necessity over the road. He sought for a further declaration that the act of the Municipality in closing up the road was *ultra vires* and also for a permanent injunction restraining the defendants from interfering with his right of way over the road to reach the temple and for a direction on the appellants to remove obstructions put by them across the road. The facts are that there was a road called Radhaballav Road leading from Ferry Fund Road westward to the Hooghly, there

were houses on both sides of the road, all of which except the temple were acquired by the appellant company and they have erected at great cost a jute mill which they are working. The defendant Municipality sold the whole of Radhaballav Road to the appellant company who have included it in their mill compound by a boundary wall. The road from the Hooghly to the temple has been closed and there is no objection to this because the appellants have acquired all the lands on both sides of the road. The dispute is with regard to the portion of Radhaballav Road from the temple to Ferry Fund Road. The Municipality finding it probably not worth while to maintain this portion of the road sold the entire road to the mills. In order to allow the plaintiff to reach the temple a passage was given to the plaintiff by the appellants of which we will speak later. The defence of the appellants and of the Municipality is that in the exercise of the power vested in the Municipality under the law it has transferred this road to the appellants, that the plaintiff had no absolute right of passage over it and that the passage given by the appellant to the plaintiff is sufficient for the purpose. The trial Court found for the plaintiff on all the points on which he based his title to the road and held that the Municipality had no right to sell the land to the mill; and further that the plaintiff had an easement of necessity over the road. The lower appellate Court confirmed all these findings, but in view of the decision of the Allahabad High Court in *Fazal Haq vs. Maha Chand*, thought that the plaintiff should be given a passage in lieu of the road and the passage proposed by the appellants from Ferry Fund Road to the temple almost diagonally across the appellant's lands would suit, but that it should be walled up on both sides by the appellant without the gate put up by them at the head of the passage. In this view, the learned Additional District Judge passed a decree to the effect that the appellant company should remove their gate from the passage keeping an intermediate space of at least 6 feet in width and should wall it up on both sides. If they failed to do so in a fortnight, the plaintiff would be at liberty to execute the decree and to have the old Radhaballav Road re-opened on demolishing the Company's boundary wall and to have access to the temple by that road. This orders to a certain extent, makes our position easy and leaves us to consider what should be the proper order passed in the circumstances of the present case. But as the lower appellate Court has confirmed the views of the first Court on the questions of law raised which have been pressed before us by the learned advocate for the respondents, it is necessary to examine them in brief.

It is argued in the first place that the Municipality has no power under Act III of 1884 to sell the road to the appellants. The learned counsel for the appellants has, on the other hand, broadly contended that the Court has no power to question the discretion of the Municipality in this matter. This contention should not be acceded to, for if the Municipality has acted *ultra vires*, the Civil Court has the power to interfere as also the power to grant proper relief to the aggrieved party. This is the principle on which Civil Courts interfere with acts of public bodies such as Municipalities, created by statutes. There are numerous cases on this point, but it is enough to refer to *Kameshwar Pershad vs. The Chairman of the Bhabua Municipality*.

Now with regard to the Municipality selling the road to the appellants, it is contended on behalf of the respondents that no such power is vested in the Municipality, whereas it is argued by the appellant

that the act of the Municipality was within the law. Under section 30 of the Bengal Municipal Act, III of 1884, all roads including the soil have been made to vest and belong to the commissioners of the Municipality. The words "including the soil" were introduced by Act IV of 1894. The section, as it now stands, means that the road together with the sub-soil belongs to the Municipality and so do all bridges, tanks, ghats, etc., but not the soil under them. Under section 34, the commissioners are empowered to sell, let, exchange or otherwise dispose of any land not required for the purpose of this Act. Before the amendment of 1894, it would appear that the Commissioners had no power to dispose of the roads and after the amendment it would equally appear that they have obtained a proprietary right over the road. Now the question is whether the word "land" as used in section 34 includes roads. The learned advocate for the respondent has strenuously argued that "land" in section 34 does not include road but means lands other than roads which belong to the Municipality. We are unable to agree with this interpretation of the law. Land has not been defined fully in the Act, but in section 6 (5) it is said to include the benefits arising out of the lands, etc. This definition does not help us very much in determining whether the word "land" as used in section 34 includes road and the soil. There does not appear to be sufficient reason why the ordinary significance of the word "land" should be abridged by excluding roads only. The amending Act of 1894 left section 34 which is a reproduction of section 34 of the Act of 1875 and of section 13 of the Act of 1864 untouched, but widened the rights of the commissioners over roads without any reservation. In the old Act of 1864 and 1875, only the surface of a road vested in the commissioners and, therefore the view was rightly held that under the old law the commissioners had no power to dispose of or transfer a road, as it may now be maintained that they have no such power over bridges, tanks, etc., the sub-soil of which does not vest in them.

This brings us to the next question as to whether the land, assuming it to include road, was disposed of as it was no longer required "for the purpose of this Act." If it was, then the Civil Court has no right to challenge or investigate into the propriety of the commissioners' action. If it was not, then however reasonable the act of the commissioners might appear, the Court would declare such act illegal and *ultra vires*. Now "the purpose of the Act" is not defined in the Act itself but some indication as to what the purposes of the Act are may be gathered by a reference to section 69 of the Act which details some of the objects to which the municipal fund may be devoted. After indicating some of the heads on which the municipal funds may be expended clause (XVII) of the section says generally to carry out the "purposes of the Act." This does bring us very much nearer to what "the purposes of the Act" means. In clause (3) of section 69 it is again said that the commissioners may do all things, not being inconsistent with this Act, which may be necessary to carry out the purposes of this section. The purposes of the Act must be the purposes for which the Municipalities in the mufassal are created. The preamble to Bengal Act III of 1864 which may be taken to be the earliest Act relating to mufassal Municipalities runs in these words:—"An Act to provide for the appointment of the municipal commissioners in towns and other places in the provinces under the control of the Lieutenant-Governor of Bengal, and to make better provision for the conservancy, improvement and watching thereof, and for the levying of rates and taxes

therein." The objects therein mentioned may be taken to be the purposes for which the Municipalities came into existence. The power of the commissioners to transfer lands including roads, etc., must therefore be exercised for the improvement, etc., of the Municipality. Now, in the present case, we find that Radhaballav Road as a road had become useless to the general public. The greater portion of it had been closed and was of no use, only a small portion still remained from the temple of Ferry Fund Road. It can only be used by the plaintiff and the votaries of the temple. In these circumstances we cannot say that the municipal commissioners were acting beyond the power vested in them by the law in regarding this portion of the road as no longer required for the purposes of the Act and selling it to the appellant. They did not certainly do something prohibited by law or inconsistent with the Act.

It has again been argued that no Municipality has the power to close or divert a road. If we are right in our view that the Municipality has the power to sell or dispose of a road under the law as it stands, it cannot be argued that it had not also the power to close or divert a road "for the purpose of the Act." In fact, it was conceded that it had such power in the Allahabad case on which the Court below has relied. There is an old case of this Court to which reference may be made in this connection. In *Empress vs. Brojonath Dey*, it was held that the Municipal Commissioners had no power under the law to stop or divert public ways. That decision was passed before the amending Act of 1894 and therefore is not of much help to us. If it is of any authority at the present day it has to be reconsidered. The English law relating to highways is not of much assistance to us in construing a Bengal Act. Under that law, soil beneath the road belongs to the owner of the land or to the owners of the lands on the two sides of the road. There is no enactment there which vests the sub-soil of the highways in a local authority. But although under that law the local authority has not been expressly empowered to stop or divert a road, it can do so by observing certain formalities mentioned in the Highways Act of 1835. In *Brojonath's Dey's case*, a reference was made to the Calcutta Municipal Act. It was pointed out there that such power is vested in the commissioners of the Calcutta Corporation, but as it was not expressly given by the Bengal Municipal Act to the commissioners of the mufassal Municipalities, it must be held to have been denied them. The same reasoning has been adopted in this case, but it seems to us that though it may be permissible to construe an Act, with reference to another Act when they are *pari materia*, the absence of an express provision in one does not necessarily import intentional omission in the other without clear words to that effect. The Act, as it stands, must be construed within its four corners. There is nothing in the Act which prohibits the commissioners to stop or divert a road or to dispose of a road. The only limitation to their power given by the Act is that they must exercise such power only for the purpose of the Act. We cannot say that the sale of the road by the Municipality to the appellant was not in the proper exercise of the power vested in it by law. It was for the purposes of the Act, namely, the improvement of the Municipality and what the commissioners thought advantageous to it.

Now, we are to consider the propriety of the passage suggested by the Court below which must be provided to the respondent for access to the temple. The passage which is suggested runs through the mill

area and the appellants agreed to it if they could exercise control over it for the protection of the mill. In our opinion it is not a convenient passage even if the directions given in the decree of the lower appellate Court are accepted.

It appears that in place of Radhaballav Road a new road has been substituted a little to the north, called New Road as shown in the map. It seems to us that there can be no objection to access being given to the plaintiff from this road. The plaintiff respondent maintains that he has the legal right to claim access from Ferry Fund Road. We think that he has no such absolute right; but he is entitled to claim a reasonably convenient access to the temple. The appellant before us has suggested a road opposite the temple running straight on to the New Road which seems to us convenient. This is objected to by the respondent on the ground that it is so close to the septic tank. We are unable to determine the exact site of the passage and what directions should be given to make it a convenient road for the plaintiff and those people who have to visit the temple.

We must accordingly send this case back to the lower appellate Court in order to determine what should be the proper passage to the temple from the New Road and of what width it should be; and also what directions should be given to make it a convenient passage. Whatever directions are given should be to the Municipality which is liable to provide a suitable passage to the plaintiff.

As a result of the above observations, this appeal is allowed and the decree of the Court below is set aside and the case is sent back to the lower appellate Court in order that it might take into consideration all the circumstances of this case and determine the alignment of the road as suggested above. Each party will bear his costs so far. Future costs will be in the discretion of the Court below.

No order is necessary in the Rule.

Appeal allowed.

(34 Calcutta Weekly Notes 1013.)

## CIVIL REVISIONAL JURISDICTION.

REV. No. 1610 OF 1929.

The Chairman of the Municipal Commissioners of Dacca. *Petitioner.*

*versus*

Sm. Hemangani Dassi and another, *Opposite Party.*

The judgment of the Court was as follows:—

This is a rule obtained by the plaintiff under section 25 of the Provincial Small Cause Courts Act. The plaintiff petitioner is the Chairman of the Municipal Commissioners of Dacca. He instituted a suit against two ladies whereby he sought to realise a sum of Rs. 156-8-3 by way of rates and taxes. The first Defendant contested the suit, the second did not. The defence which the learned Munsif discussed was that a former Chairman of the Municipality remitted the taxes and



rates. It is a common ground that there was an assessment and valuation of the Defendants' premises as required by the Municipal Act. It is said that thereafter owing to the defendants' poverty the commissioners remitted the levy of the rate under section 406 of the Municipal Act. I am not even clear from the learned Munsif's judgment that he was prepared definitely to come to a finding of fact that the remission on which the Defendant relied had actually been made. But for the purposes of this Rule I will assume that the Defendant satisfied him as to the alleged remission. To my mind the remission was no defence to the Municipality's claim because the taxes in respect of which the suit is brought are admittedly taxes in respect of periods long subsequent to the date of the alleged remission. As I read the Municipal Act the commissioners have no power to remit payment of rates or taxes in future and any powers of remission exercised by them can only affect the demands that have fallen due at the date of such remission. Therefore I think that the finding of the Munsif was quite irrelevant and did not afford any answer to the plaintiff's claim. I have been somewhat exercised as to the proper order for me to make in view of the conclusion to which I have come. The Plaintiff represents a public body and I should be averse from any order which would have the effect of shutting out any defence which the Defendant might hope to advance with any reasonable chance of success. But in the circumstances of this particular case the Defendant has not succeeded in suggesting to me any defence which, if established, would afford an answer to the Plaintiff's claim. It is said that no demand was made for the sum due, but my attention has not been directed to any provisions of the Municipal Act which, to my mind, render a demand in circumstances like the present, a condition precedent to a suit at the instance of the Municipality. I therefore do not think that I should be doing the Defendant any service whatever in remanding the case to the learned Munsif and such a course would only involve her in further expense. In the circumstances I feel I must set the order of the learned Munsif aside and decree the suit for the amount claimed.

Having regard to the nature of the suit and the position of the parties, I make no order as to costs in this Rule. There will, however, be a decree for costs in the suit so far as the Defendant No. 2 is concerned as she did not appear and contest the suit.

### **Legality of an adjourned meeting called by neither the Chairman nor the Vice-Chairman.**

*Ben. Munpl. letter No. 527M. of 3-2-1931, to Commr., Dacca Division.*

I am directed to refer to your memorandum No. 4767J., dated the 27th August 1930, regarding the validity or otherwise of the proceedings of a meeting held on the 26th May 1930, by the Municipal Commissioners of Sherpur in the district of Mymensingh.

2. It appears that during the absence of both the Chairman and Vice-Chairman of the municipality from Sherpur, one of the Commissioners was authorised by the Chairman in writing to remain in charge of the office. The said Commissioner issued a notice on the 20th May 1930 for an ordinary monthly meeting which was to be held on the 23rd May 1930. Meanwhile, the Vice-Chairman returned and came to office at the time fixed for the meeting. He waited half an hour after the time fixed for the meeting but as there was no quorum the meeting was adjourned by him and, as required by the

rules, he issued a notice for the adjourned meeting on the 23rd May 1930. The meeting was actually held on the 26th and some resolutions were passed thereat. The local Government Pleader is of opinion that although the notice issued by the Commissioner in charge was invalid, the subsequent notice, issued by the Vice-Chairman was valid and that the meeting called in pursuance thereof be regarded as an ordinary meeting and not an adjourned meeting. As the District Magistrate does not agree with this view you refer the matter for the decision of Government.

3. In reply, I am to say, that Government have been advised that a meeting notified to be an "adjourned ordinary meeting" cannot be treated as an "ordinary meeting." It is clear that the meeting which was to be held on the 23rd May 1930 was adjourned to the 26th under section 42 of the Bengal Municipal Act, so that the meeting of the 26th would be valid if no quorum, which was necessary for the validity of an original meeting, was present. There can, therefore, be no doubt that the meeting of the 26th was an adjourned ordinary meeting. Now as the original meeting was not legal—not being called either by the Chairman or the Vice-Chairman, it could not be adjourned to any other day and such an adjourned meeting could not be valid under the law.

4. As regards the notice of the adjourned meeting, I am to point out that unless it was served on the members before 10 a.m. on the 23rd May 1930 it was not a valid notice. Both the Act and the rules of business framed by the municipality provide for three days' notice which means three days' clear notice.

## Municipal Proceedings.

### Responsibility of Magistrates for watching proceedings of Municipal Proceedings.

*Ben., Mun., Cir. No. 10, of 11-4-1891, to Commrs.*

Under section 60 of the Bengal Municipal Act, III (B.C.) of 1884, a copy of the minutes of the proceedings of the Commissioners in meetings must be forwarded forthwith to the Magistrate of the district. The object of the provision of the law is to ensure that the Magistrate shall be in a position to watch over, and control, the proceedings of the Commissioners on behalf of Government; and while it is incumbent on Magistrates to be careful not to exercise unnecessary or hasty interference, especially in matters of detail, it is equally their duty to draw attention to any questionable action, especially as regards the expenditure of public money in any doubtful fashion, or any serious departure from accepted principles on the part of the Commissioners. The Lieutenant-Governor has some reason to believe, from cases which have come to his notice, that there is a tendency to overlook the responsibility which is imposed on Magistrates by this section, and he desires, therefore, to remind them that the proceedings of Municipal Commissioners in their districts should be carefully pursued and considered in all cases. It is desirable that copies of important proceedings should be forwarded by the District Magistrate for the information of the Commissioner of the Division, but a discretion in such cases must rest with the Magistrate.

2. I am to request that these orders may be communicated to all District Magistrates in your Division.

## Municipality.

### Propriety of a municipality to construct a drain along a Government road.

*Ben., Mun., Cir. No. 491M. of 24-1-1936, to Commr., Burdwan.*

I am directed to refer to the correspondence ending with your memorandum No. 1596M., dated the 19th September 1935, regarding the propriety of the Utterpara Municipality in the matter of constructing a pucca drain along the eastern flank of the Grand Trunk Road. The Public Works Department consider that the municipality is liable to prosecution under the Bengal Highways Act, on the ground that the pucca drain is an encroachment on the Grand Trunk Road which the municipal commissioners refused to remove. You ask for general instructions of Government in the matter for the guidance of all concerned.

I am at the outset to explain the points of law involved and their bearing on the general facts of the case before enunciating the line of policy which the Government of Bengal (Ministry of Local Self-Government) desire to lay down. The Grand Trunk Road as well as other Government roads pass through a great number of municipalities. Although such a dispute as the present one did not come to a head before, it is better for all concerned that relationship between Government and the municipal bodies in respect of Government roads should be set on a proper footing eliminating the possibility of such disputes in future.

The Grand Trunk Road is undoubtedly a Government road according to section 2 of the Bengal Highways Act. By virtue of the exception in section 95(I) of the Bengal Municipal Act, 1932, this road is not the property of the municipality and cannot vest in the local body. The road includes slope, side drains, etc. The ownership of Government of these drains alongside the Grand Trunk Road is thus not in doubt. The municipality has no right or title whatsoever to these drains.

Next comes the most important issue of the operation of section 270 of the Bengal Municipal Act. This section, as it stands, gives the municipal commissioners very broad powers of constructing drains within the jurisdiction of the municipality. The power to carry drains through, across or under any street surely includes the power to carry drains alongside a street. A street includes a public or private street, and the Grand Trunk Road is a public street. That the commissioners have been deliberately given powers to carry drains of any kind through, across, under or over any street without notice and in case of any private land or building with notice, will also be clear from a perusal of section 286 of the Bengal Municipal Act, 1932. It is evident, therefore, that the question of ownership of Government does not affect the powers of municipal commissioners to construct drains alongside the Grand Trunk Road. There is also no question of damage or compensation in respect of a street, public or private. The rules under the Bengal Highways Act, 1925, regarding encroachment on a road do not hold at all.

It has been suggested that the municipalities through which this or any other Government road passes can be prevented from constructing, altering or in any way interfering with the drains which form part of the road by the issue of a notification under section 95(2) of the Bengal Municipal Act, excluding such roads from the operation of sections 270 and 286 of the Act. The Government of Bengal, however, do not consider it expedient to stop the municipalities from taking care of these drains, as the construction and improvement of drains alongside the Grand Trunk Road have admittedly been always advantageous to the Public Works Department.

At the same time the Government of Bengal feel that some control of the Public Works Department over the road is necessary in order to check the indiscriminate outfall of the municipal drains into the side drains of the Grand Trunk Road. Further, if each municipality is allowed the liberty to alter the levels of the roadside drains within its jurisdiction without let or hindrance, this would affect the drainage of the Grand Trunk roadside drains and also the drainage of the municipal drains into them and might result in long lengths of drain with stagnating water and garbage which cannot flow away. To provide this necessary check on the part of the Public Works Department, no legislation or notification appears to be necessary. The Government of Bengal consider that it would be sufficient if the local bodies, before undertaking the construction of such drains, consult the local officer-in-charge of the Public Works Department. The officer is expected to give an expert opinion on the proposals for improvement of drainage, and this advice will ordinarily be of help and acceptable to the local body. The Government of Bengal (Ministry of Local Self-Government) are, therefore, pleased to direct that whenever any municipality or local body proposes to construct a pucca drain or to take any other action regarding these roadside drains which affect the drainage of the Grand Trunk Road in any way, they should consult the Executive Engineer of the Public Works Department and consider his views at a meeting before proceeding to execute the work. In case of disagreement between the municipality or the local body concerned and the Executive Engineer, the matter should be referred to Government for orders.

I am to request that these instructions may be brought to the notice of all concerned for future guidance.

*Memo. Nos. 492-95M. of the 24th January 1936.*

Copy forwarded to all Commissioners of Divisions (except Burdwan) for information and communication to municipalities and local bodies within their divisions.

#### **Extension of Schedule VI of the Bengal Municipal Act to municipalities.**

*Ben., Mun., Cir. No. 2759M. of 24-4-1936, to Commr., Burdwan.*

I am directed to refer to your letter No. 862M., dated the 28th May 1932, and its enclosures, regarding the proposal of the Bally municipality for extension of Schedule VI of the Bengal Municipal

Act with modifications. It is stated that the provisions of whole of Part VI of the Bengal Municipal Act, 1884, having been in force in the municipality immediately before the commencement of the Bengal Municipal Act, 1932, sections 315, 317-327 and 329 of the Act are automatically in force there. But it is not mentioned that, building rules adopted by the municipality with the sanction of Government accorded in notification No. 3938M., dated the 22nd October 1927, are also in force in the municipality.

2. I am to explain the position about the extension of Schedule VI to a municipality as follows:—

(1) Under section 312 (1) of the Bengal Municipal Act, 1932, the Local Government may, by notification, declare that Schedule VI or any part thereof shall be in force in a particular municipality.

(2) Under sub-section (2) of that section the provisions of sections 315, 317-327 and 329 also require to be specially extended to municipality when Schedule VI or any part thereof is brought into force.

(3) Under the proviso to sub-section (2) of that section the particular sections referred to need not be specially extended to a municipality in which the provisions of Part VI of the Bengal Municipal Act, 1884, were in force immediately before the commencement of the new Act of 1932. The proviso does not specifically provide whether Schedule VI of the new Act need not also be specially extended to a municipality in which Part VI of the old Act including section 241 was in force and in which building rules had been framed corresponding more or less to Schedule VI of the new Act.

(4) Most of the sections, viz., 315, 317-327 and 329 of the new Act, which do not require to be specially extended to a municipality in which Part VI of the old Act is in force, however, refer to Schedule VI of the Act, which seems to suggest that they cannot operate in a municipality where Schedule VI is not in force.

As references of the nature of the Bally case are received from other local bodies from time to time, the matter was referred to the Legal Remembrancer for opinion. Government are advised that in a municipality in which Part VI of the old Act and building rules under section 241 of that Act were already in force and for that reason the provisions of sections 315, 317-327 and 329 of the new Act automatically applied, schedule VI of the new act need to be specially extended under section 312 (1) of that Act. I am to request that the Bally municipality may be informed accordingly.

*Memo. Nos. 2760-2763M. of the 24th April 1936.*

Copy forwarded to other Commissioners of Divisions for information.

It appears from paragraph 9 of the petition that a suit has been filed by the petitioner under section 36 of the Bengal Municipal Act, 1932, before the District Judge of Rajshahi. It is requested that a copy of the judgment given by the District Judge may be forwarded to this department.

The return of the original papers is requested.

**Removal of an elected municipal commissioner convicted of an offence  
involving moral turpitude.**

*Ben., Mun., order No. 171M., of the 10th January 1935, to Commr.,  
Rajshahi.*

I am directed to refer to the correspondence resting with your letter No. 2922M., dated the 20th September 1934, regarding the election of Babu Phani Bhusan Sen as a commissioner for ward No. V of the Rajshahi municipality at the general election of the municipality held on the 28th March 1934. It appears that Babu Phani Bhusan Sen had been convicted on 10th July 1931 of an offence under section 420, I.P.C. You submit the case to Government for a decision as to whether the opinion of the local Government should be recorded under section 22(2) of the Bengal Municipal Act, 1932, to the effect that the particular offence involves moral turpitude.

2. In reply, I am to say that in the opinion of Government the offence of which Babu Phani Bhusan Sen was convicted involved moral turpitude and as the offence carries with it a sentence of imprisonment for more than six months, he was, therefore, ineligible as a candidate for the election. Government are advised that his election is a nullity and that a fresh election should be held. I am to request that the commissioners of the Rajshahi municipality may be informed accordingly.

**Question of supersession of the South Suburban municipality in  
connection with the preparation of electoral roll.**

*Ben., Mun., order No. 1942M., of 8-3-1935, to Commr., Presidency.*

I am directed to refer to your letter No. 326M., dated the 23rd February 1935, regarding the proposal to supersede the South Suburban Municipality. Last year the first general election of this municipality had to be postponed by Government notification No. 1404M., dated the 28th March 1934, owing to irregularities committed by the Chairman in conducting the election proceedings. From the District Magistrate's letter forwarded with your letter under reference, it appears that, this year, the final list of voters was published by the Chairman under his own signature and was not endorsed by the other two members of the registering authority as required by 15 of the Municipal Election Rules. The District Magistrate reports that these members refused to sign the list on the ground that they had not been given time and opportunity to go through the objections and the corrections made in the list and he is of opinion that they are not to blame for having refused to sign or be parties to the finally published list. You are of opinion that the irregularities referred to above have rendered the validity of the election liable to be questioned in the civil courts and that the recent history of this municipality indicates that such a possibility is certain to be taken advantage of by the Chairman and his supporters to delay unduly the holding of the first general election of the municipality. You consider that the case amounts to one of persistent default in regard to the conduct of the elections and you recommend that the municipal commissioners should be superseded under section 553 of the Bengal Municipal Act.

2. In reply, I am to say that Government have taken legal opinion on the point whether failure of the Chairman or the registering authority to prepare and publish the electoral roll properly can be regarded as a default in the performance of duties on the part of the commissioners of the municipality within the meaning of section 553 of the Act. Government are advised that no action under section 553 can be taken in this case as the registering authority is only a committee of the Chairman and two commissioners and the failure of the committee is not sufficient default for the purpose of section 553.

I am to say that Government agree with the above opinion and are accordingly unable to accept your recommendation for supersession of the municipal commissioners under section 553 of the Act. The election will, therefore, proceed as ordered before.

3. As regards your observation that the validity of the election is likely to be challenged in the civil courts, I am to say that Government are advised that under section 36 of the Act, the election cannot be questioned merely on the ground of exclusion or inclusion of names in the electoral roll. Under section 38(c) of the Act, the election can only be set aside on the ground of non-compliance with the Act or rules if the result of the election has been materially affected thereby. Mere non-signature by the members of the registering authority other than the Chairman or objection by them to sign will not, therefore, in itself be an adequate ground for setting aside the election unless it can be shown that the result of the election has been materially affected thereby.

*Ben., Mun., order No. 2148M., of 21-3-1935, to Commr., Presidency.*

With reference to your memorandum No. 448M., dated the 12th March 1935, and subsequent letter No. 479M., dated the 19th March 1935, on the question of the supersession of the South Suburban Municipality, I am directed to say that Government are advised that in view of the previous history of the case, viz., the fact that the collection department had to be superseded and that the conduct of election had to be taken over by Government, followed by the attempt on the part of certain commissioners to remove the Chairman, and the other matters mentioned in the District Magistrate's letter No. 92Con., dated the 6th March 1935, there is sufficient justification for the supersession of the municipality under section 553 even without taking any previous action under section 552, as laid down in the proviso to the former section. In consideration, however, of the fact that the general election of the municipality is impending and that a successful election will dispose of most of these difficulties, Government agree with you that the municipality should not be superseded on the eve of the general election.

I am accordingly to request that the ensuing general election of the municipality should be proceeded with.

### **Proposed abolition of the post of Assistant Engineer of the Howrah municipality.**

*Ben., Mun., order No. 32T.—M., of 27-4-1935, to Commr., Burdwan.*

I am directed to refer to the correspondence resting with your letter No. 2045M., dated the 5th November 1934, regarding the abolition of the post of Assistant Engineer of the Howrah municipality.

2. It appears that the post of an Assistant Engineer on a pay of Rs. 250—10—350 per mensem was created by the commissioners of the Howrah municipality in 1921, with the sanction of the Local Government under section 61 of the Bengal Municipal Act, 1884. On the 19th March 1934 the municipal commissioners passed a resolution, at an ordinary meeting, to the effect that the post of the Assistant Engineer be made vacant on the expiry of the month of June 1934, and that the incumbent to the post be served with due notice. In forwarding a copy of the resolution for confirmation by the Local Government the Chairman explained that the municipal commissioners decided to keep the post vacant as a measure of economy. You held that the actual effect of the resolution was to dismiss or remove the Assistant Engineer within the meaning of sections 66 and 67 of the Bengal Municipal Act, 1932, and as the resolution was neither passed at a special meeting called for the purpose, nor supported by at least two-thirds of the whole number of commissioners, the action of the commissioners was in excess of the powers conferred on them by section 67 (3) and proviso (iii) to section 66 of that Act. You accordingly suspended the resolution under section 548 (2) and forwarded a copy of your order, dated the 5th June 1934, on the subject to the Local Government for confirmation under section 548 (3) of the Act.

Since then, in order to afford the municipal commissioners an opportunity to reconsider the matter, the Chairman was requested to reopen the question in the manner laid down in rule 33 of the Rules of Business adopted by the commissioners and to pass a fresh resolution in conformity with the provisions of law. On 27th July 1934 the municipal commissioners passed a fresh resolution abolishing the post of Assistant Engineer as a measure of economy, and a copy of the resolution was forwarded, through the local officers, for the sanction of Government. The meeting at which this resolution was passed was not, however, a special meeting or convened in accordance with rule 33 of the Rules of Business and there is nothing on record to show that the resolution was supported by at least two-thirds of the whole number of commissioners. You accordingly recommend that the proposal of the municipal commissioners should not be sanctioned by Government on the grounds—

- (i) that the resolution was not passed at a special meeting called for the purpose as required by proviso (iii) to section 66(2) and section 67(3) of the Act, and
- (ii) that rule 33 of the Rules of Business was not complied with in altering a previous resolution.

3. In reply, I am to say that Government are advised that although section 67(3) of the Act does not apply in the present case, the second resolution abolishing the post is invalid on the grounds that—

- (i) the meeting was not convened on a requisition by a clear majority of commissioners, in accordance with rule 33 of the rules of business; and
- (ii) although the abolition of the post in the present case involves dismissal of the incumbent to the post, the resolution was neither passed at a meeting specially convened for the purpose nor was it supported by at least two-thirds of the whole number of commissioners as required by proviso (iii) to section 66 (2).



In the circumstances, Government are unable to sanction the proposed abolition of the post of Assistant Engineer, Howrah Municipality.

## Night-soil.

### Disposal of night-soil in Municipalities.

*Ben., Mun., Cir. No. 2M. of 12-1-1894, to Commsr.*

It is now many years since the attention of local officers was drawn to the extreme importance of disposing of night-soil in municipalities and large villages in a methodical and inoffensive manner. In 1891 the Sanitary Commissioner, Bengal, brought to the notice of Government that the instructions issued by him regarding the disposal of night-soil were not properly carried out by municipalities, and accordingly orders were then issued requiring Civil Surgeons to co-operate with Magistrates of districts in exercising general supervision over the sanitary arrangements of municipalities.

2. Dr. Gregg has now laid before the Lieutenant-Governor a report of the condition of certain trenching grounds near Calcutta submitted by the Deputy Sanitary Commissioner, Metropolitan and Eastern Bengal Circle. This report discloses a state of things horrible and disgusting in itself, and shows that in the municipalities in question the instructions contained in the Sanitary Department Circulars noted below have been entirely disregarded. The Lieutenant-Governor fears that these are not solitary instances, but that similar conditions prevail in other municipalities in Bengal.

3. I am accordingly to request that you will be so good as to draw the attention of Municipal Commissioners through the District Officers to the importance of the matter and desire them to carry out strictly the instructions issued by the Sanitary Commissioner on the subject. District and Subdivisional Officers and Civil Surgeons should at the same time be requested to insist upon a compliance with these orders.

Further, I am to say that the Annual Reports submitted for the municipalities in your Division should in future state particularly what system for the disposal of night-soil is in force in each, and should state specifically whether the Sanitary Commissioner's admonitions have been carried out. The subject should also be noted in the inspection reports of Municipalities by local officers.

*Circular No. 148, dated the 16th November 1888, from the Sanitary Commissioner for Bengal, to Chairmen of Municipalities.*

During a recent tour of inspection I observed that in many municipalities the night-soil was buried in deep pits. This is a most objectionable practice. When a large quantity of night-soil is deposited in pits or deep trenches, it takes a very long time before the excreta can be completely absorbed by the soil, and in the meantime the sewage frequently reappears on the surface by fermentation and gives off an offensive smell which is most injurious to health. Long experience has

shown that the safest and most profitable way of disposing of night-soil is by burying it in *shallow trenches 4 feet wide, 1½ feet deep, and 24 feet long*. The trenches should be dug side by side at intervals of 1 foot, and 9 inches of night-soil should be put into each trench, and the rest of the space covered in with earth. A trench of these dimensions is sufficient for the night-soil of 2,000 persons for 24 hours, and can easily be marked out by the Municipal Inspector with the aid of a string knotted at the required lengths. The advantage of placing the trenches side by side is that in this manner a field can be thoroughly and systematically manured, and that it will be easy for the *methers* to cover over the night-soil in one trench with the earth dug out of the trench alongside. Night-soil trenched in the manner described above gives off no unpleasant smell, nor when the soil after several months is trenched up is there any trace of deposit, but the light coloured sandy loam will be found converted into a rich dark coloured mould. A field once thoroughly manured in this way will produce a succession of crops of different kinds of vegetables, both European and native, and such plants as jute, indigo, sugarcane, mustard: in fact all strong feeders are particularly suited to the richness of lands manured with night-soil. Of course a great deal depends upon the supervision of the Municipal Inspector, who should see that the trenches are properly made, that not more than the prescribed amount of night-soil is deposited in each trench, and that the *methers* level the ground after covering the night-soil over with earth, so as to leave it ready for planting. It is also very desirable that the lands thus manured should be planted over as soon as possible, as in the early application of the forces of plant life to such soil lies much of the success of this scheme. At Hooghly the above system of trenching is worked under the supervision of the Municipal Inspector, Pearu Ameen, with much advantage to the municipality and credit to himself. In the last Inspection Report of my predecessor on the Hooghly Municipality I find the following remarks on the subject:—"I was very glad to see that two of the trenching grounds are cultivated very successfully and excellent crops of English vegetables, gram, mustard, egg plant, plantains, beans, etc., raised. I have never seen finer cabbages before except in England." These remarks are very encouraging, and I would strongly urge all municipalities to adopt the shallow trenching system, and to discontinue as soon as possible the deep-pit system of burying which, as already stated, is most injurious to health. I have not the least doubt that when cultivators once see the advantage of the trenching system, they will gladly give up their fields to be manured in the manner described in this letter.

*Circular No. 191, dated the 11th October 1890, from the Sanitary Commissioner for Bengal, to Chairmen of Municipalities.*

I have the honour to forward herewith, for circulation among the Commissioners for information and guidance, copies of a Note by me on the best means as to the disposal of night-soil and street-sweepings in Bengal towns.

*Note.*

While all agree as to the necessity for the immediate removal of excreta from dwellings, the best method of disposing of it is by no means settled. The two main methods at present in vogue are (1) the water method, and (2) the dry method. No doubt the removal

of excreta by water is frequently the cleanest, the readiest, the quickest, and in many cases the most expensive method; but certain conditions of success must, as stated by the late celebrated Professor Parkes, be present, without which this plan, so good in principle, may utterly fail in practice. The conditions mentioned by Dr. Parkes are—(a) that there should be a good supply of water, (b) good sewers, (c) ventilation, (d) a proper outfall, and (e) means of disposing of the sewage water. "If these conditions cannot be united, we ought not," he says, "to disguise the fact that sewers, improperly arranged, may give rise to no inconsiderable dangers," because "they are underground tubes, allowing possibly not only accumulation of excreta, but causing by bursting contamination of the ground and poisoning of the water supply." But the difficulty of the plan of removing excreta by water really commences at the outfall. In sea-board towns, as explained by Dr. Parkes "the water may flow into the sea, but in inland towns it should not be discharged into rivers," for, independent of the contamination of the drinking water, it creates a nuisance. In most towns in Bengal, however, the use of sewers and the removal of excreta by water is impracticable because a good fall cannot be obtained, and during the hot-weather months there is insufficient water.

2. The water method, therefore, being almost universally impracticable in Bengal, and certainly inadvisable, the attention of municipalities should be directed to the other method mentioned above, *viz.*, the dry burial method. Most agriculturists now-a-days are in favour of this method of disposing of night-soil, because of the rich fertilising effects it produces in the soil, and various plans for the disposal of excreta in this way are at present in use in Bengal. As a typical instance of the satisfactory and even profitable manner in which the dry earth method can be carried out, we may take the case of Howrah, which has probably a population of 100,000 inhabitants. Howrah is one of the largest municipalities in Bengal, and is situated on the right bank of the river Hooghly, opposite Calcutta, extending along the river for a distance of about eight miles, and inland for about two and-a-half miles. No sewage system would be practicable here owing to there being no outfall except into the river Hooghly, the water of which the Government for obvious reasons would not allow to be polluted with sewage. The excreta has therefore to be disposed of on the dry-earth principle. The accompanying is a rough sketch\* of the Howrah Municipality, showing the central night-soil depot, the tramway from the depot to the night-soil burying ground (which is situated to the north of an outside municipal limits), and a second depot, marked B on the map, which is used for the disposal of liquid excreta only, principally urine.

The whole of the *solid excreta* is collected from closets in wooden buckets, two of which are carried by each *methur*, and taken to the depot marked A, where it is put into small iron wagons and carried out by a steam-tramway to the depot marked C (a distance from A of about three miles), where it is buried in trenches in the manner directed in Sanitary Commissioner's Office Circular No. 148, dated the 16th November 1888. *Liquid excreta* is taken from the house in barrel carts to depots A and B, where it is disposed of by burial. The *street refuse* is also carried out to depot C and disposed of there in the same way, *viz.* by burial. The night-soil wagons are provided with iron lids,

which are plastered down with glutinous mud as soon as the wagons are filled with night-soil. This system prevents unpleasant odours being given off during the passage of the wagons through the town to the depot C.

3. The great advantages of the dry-earth method of removing night-soil are—first, that the excreta, etc., are entirely removed from the neighbourhood of habitations; second, river pollution is avoided; and third, the excreta is utilized for agricultural purposes to the benefit of the inhabitants of the town. Experience has proved beyond a doubt that in towns situated in agricultural districts, as all the towns in Bengal are, the earth or burial system of disposing of night-soil is decidedly the best, and if properly carried out can be worked to great advantage and with profit. A field thus manured is fit for the cultivation of vegetables and crops of various descriptions in three months after the night-soil has been buried in it. In Howrah a *mallic* is kept at each of the night-soil depots, and he is assisted in cultivating the land by a sufficient number of coolies. The whole arrangement is under the supervision of the Conservancy Inspector, Mr. Henwood, assisted by Babu A. Ch. Ghose, both of whom deserve credit for the efficient manner in which they supervise this important branch of their duties.

I would strongly advise all municipalities in Bengal to follow the examples set by Howrah as to the disposal of night-soil and not to think of disposing of it by the water method, which, as already stated, is unsuitable to and impracticable in Bengal.

*Circular No. 253, dated the 16th November 1892, from the Sanitary Commissioner for Bengal, to Chairmen of Municipalities.*

In continuation of this office Circulars Nos. 148, dated the 16th November 1888, and 191, dated the 11th October 1890, regarding the trenching of night-soil and the cultivation of the ground so manured, I am directed by the Government of Bengal to draw your attention to the following Extract from a Memorandum by the Army Sanitary Commission on the Hyderabad Assigned Districts' Sanitary Report for 1890, complaining that sufficient attention is not paid to cropping land used for trenching purposes in municipalities. That is, as I have often pointed out, a most serious omission, as it is an essential condition to the success of the trenching system that the land should be subsequently utilized for cultivation; otherwise the system becomes a danger.

*Extract from the Army Sanitary Commission's Memorandum.*

The system of the conservancy adopted is open to objection. It appears that in all the municipalities the night-soil is trenched, but the "trenched land is not cropped as has been repeatedly advised." This is a serious omission which ought to be made good, not only because money might thereby be raised for municipal purposes, but also because the trench system without after-cultivation is altogether incomplete. The prejudices of the people are against the use of such manure, but so they were more or less all over India. In some parts, however, by persistent efforts these prejudices have been overcome with great advantages both to conservancy and municipal funds.

## Notifications.

### Publication of Draft Rules.

*Ben., L.S.-G. No. 273-77 L.S.-G., of 15-1-1924, to Commrs.*

It has been suggested that in sending notifications containing draft rules under the Bengal Village Self-Government Act or amendments thereto for publication, Government should specify the extent of publication desired when issuing such notifications and supply a sufficient number of copies of them to secure wide publication. In regard to the supply of copies of the notifications orders have already issued in Government Circular No. 304-08T.—L.S.-G., dated the 27th September 1923, that Bengali translations of the draft rules along with the rules in English will be supplied to Union Boards and District Boards by Government. I am now to say that steps will be taken to see that the number of copies supplied are such as will admit of a wide publication being made.

2. As regards the extent of publication I am to say that the Government of Bengal (Ministry of Local Self-Government) are pleased to direct that the publication shall be made by posting up the vernacular translation of the notification along with the notification in English in a conspicuous position at the offices of Union Boards, Local Boards, District Boards, Subdivisional Magistrates and District Magistrates. In all future cases the manner and extent of publication will be prescribed merely by referring to this order.

### Translation of Notifications, etc.

*Ben., L.S.-G., Nos. 304-08T.—L.S.-G., of 27-9-1923. to Commrs.*

I am directed to refer to Mr. De's letter No. 287 L.S.-G., dated the 3rd February 1923, in which he, at the instance of the District Magistrate of Burdwan recommends that Government should supply Bengali translations of those notifications which under the Village Self-Government Act, the Local Self-Government Act and other Acts are required to be translated into vernacular for wide publication.

2. In reply, I am to say that at present District Boards and Union Boards are being supplied with Bengali translations of the rules under the Village Self-Government Act as soon as they are finally published. Government propose to continue this practice; it is further proposed to supply Bengali translations of the draft rules under the Village Self-Government Act to District and Union Boards, along with the rules in English, so that they would not be required to translate them. District Officers should, however, arrange for the translation of notifications affecting single Union Boards.

3. As regards rules, by-laws, etc., issued under the Bengal Municipal and Local Self-Government Acts, I am to observe that under the orders\* cited below District Boards and municipalities are required

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\*Notification No. 764T-4 M., dated the 7th September 1910.  
Circular No. 26M., dated the 15th July 1910.

to publish Bengali translations of all by-laws—both draft and final—framed under the Bengal Municipal and Local Self-Government Acts. Rules and other orders affecting the public are also translated by them into Bengali and published similarly. This practice is based on the provisions of section 354 of the Bengal Municipal Act, and section 143 of the Local Self-Government Act, but Government (Ministry of Local Self-Government) are of opinion that with the spread of English education the necessity for the translation of rules and orders made under these two acts no longer exists, and Government will consider the advisability of eliminating these provisions from the Bengal Municipal Bill as introduced in the Council and from the Local Self-Government Act when it is next amended. Moreover, in the present state of provincial finance and the need for effecting all possible economies, the Ministry of Local Self-Government do not consider it expedient to undertake on behalf of local bodies translation of rules, by-laws, etc., under the Municipal and Local Self-Government Acts, as it involves extra expenditure both on account of printing and maintaining additional staff. I am to request that District Officers and local bodies in your Division may be informed accordingly.

## Oaths.

### Oath of allegiance.

*Ben. Mun. order No. 414M. of 3-2-1934, to Commr., Rajshahi.*

In continuation of paragraph 3 of this department letter No. 5606M., dated the 9th October 1933, I am directed to say that the Government of Bengal (Ministry of Local Self-Government) are pleased to prescribe the forms in which the oath of allegiance to the Crown may be taken in Bengali, Hindi and Urdu. I am to enclose copies of the forms and to request that should occasion arise, these may be used by the Municipal Commissioners when taking the oath of allegiance under section 57 of the Bengal Municipal Act, 1932.

*Memo. Nos. 415-18M. of the 3rd February 1934*

Copy, with a copy of this department letter No. 5606M., dated the 9th October 1933, together with copies of the printed forms, forwarded to all other Commissioners of Divisions for information and necessary action.

“জাতি.....জহ্ন মিউনিসিপ্যালিটির কমিশনার নির্বাচিত/নিযুক্ত হইয়া  
যা। নিয়মে শপথ করিতেছি (অথবা প্রতিজ্ঞা করিতেছি) যে আমি ব্রিটিশমান ভারতেশ্বর,  
উঁহার উত্তরাধিকারী এবং স্থানান্তরিতগণের বিশ্বস্ত থাকিব ও উঁহাদের প্রকৃত আগ্রহতা  
স্বীকার করিব এবং যে কর্তব্যভার গ্রহণ করিতে উত্তম হইয়াছি তাহা বিশ্বস্তভাবে সম্পাদন  
করিব।”

में.....इस स्थितिपैसिटो का कमिश्नर नियुचित/मनीबोस होकर यथा रीति प्रपत्र करतू हूँ (बयना प्रतिष्ठा करता हूँ) कि मैं श्रीश्रीमान भारत बकाट बकाटुर तथा उनके उत्तराधिकारियों और स्थानमिषिक्तों के प्रति बिकला तथा प्रकृतनास से अनुगत रहूँगा और मैं जिस कर्तव्य को अपने ऊपर लेने का रहा हूँ उसका ईमानदारी के साथ पालन करूँगा।

منكہ ..... مبرنسدیلیٹی هذا کا منتخب  
 شدہ نازن کردہ کمشنر ہوکر، حلفہ قسم اہانا ہوں (یا اقرار کرتا ہوں)  
 کہ میں شہنشاہ ملک معظم ہند، انکے وزراء و جانشینوں کا وفادار رہوں گا  
 اور ان کی سچی اطاعت کروں گا اور ان فرائض کو جنکو میں اپنے اوپر  
 لینے جا رہا ہوں ایمانداری کے ساتھ انجام دوں گا \*

*No. 5606M., dated the 9th October 1933, from the Assistant Secretary to the Government of Bengal, Local Self-Government Department, to the Commissioner of the Rajshahi Division.*

With reference to your letter No. 2470M., dated the 4th August 1933, regarding the alleged irregularity in the election of Chairman and Vice-Chairman of the Natore Municipality, I am directed to say that Government agree with you that there is no substance in the objection raised by Babu Gopendra Prasad Sakul, one of the Commissioners of the Municipality. The fact that the oath of allegiance was taken in Bengali by the two Commissioners concerned makes no difference.

2. As regards the publication of the result of the elections, I am to say that since the approval of Government to the election of a Municipal Chairman has been dispensed with by the new Bengal Municipal Act, 1932, the names of the elected Chairman and Vice-Chairman of the municipality should be published by you and not by Government.

3. As regards your proposal to prescribe forms in which the oath may be taken in Bengali, Hindi and Urdu, I am to say that the matter is under consideration.

#### **Oath of allegiance.**

*Beng. Mun. order No. 2T.—M., of 26-4-1935, to Commr., Chittagong.*

I am directed to refer to your letter No. 863G., dated the 16th February 1935, submitting your report on a petition from Babu Nagendra Nath Roy and others questioning the validity of the election of Chairman and Vice-Chairman of the Chandpur municipality.

It appears that at the first meeting of the newly elected and appointed commissioners of the Chandpur municipality held on the 19th September 1934 before proceedings to the business of electing a Chairman and a Vice-Chairman, all the commissioners present, one by one, made oaths of allegiance to the Crown and elected one of their number to be the President for that meeting. They then elected a Chairman and Vice-Chairman. It is contended that as the commissioners did not elect any President before making the oath of allegiance, the meeting did not comply with the provisions of section 57 of the Bengal Municipal Act, and that as such the election of Chairman and Vice-Chairman was illegal and *ultra vires*.

In reply, I am to say that Government are advised that it is open to the persons elected or appointed to be commissioners to make any arrangement that they consider suitable with regard to the matter of taking oath. There is no necessity to have a Chairman or President for the taking of oath and if there was no body in the chair and the members rose in turn in their places and took the oath, the requirements of the law would be fulfilled. Government, therefore, agree with you that there are no grounds for interference in the matter.

#### Oath of allegiance.

*Ben. L.S.-G., order No. 6755 L.S.-G. of 7-12-1935, to Commr., Dacca.*

With reference to your memorandum No. 4010J., dated the 28th August 1935, regarding the procedure to be observed by newly elected and appointed members of district and local boards in making the oath of allegiance under section 16B of the Local Self-Government Act, 1885, I am directed to say that the procedure should be similar to that explained in Government order Nos. 6108-6114M., dated the 9th November 1933, for making the oath of allegiance by the commissioners of a municipality under section 57 of the Bengal Municipal Act, 1932.

The District Magistrate should before issuing a notice under rule 77 or 75A of the Local Self-Government Election Rules for the election of Chairman and Vice-Chairman of a local or district board, as the case may be, issue a notice to all elected and appointed members that a meeting will be held on a date and at a time to be fixed by the District Magistrate for the sole purpose of taking the oath under section 16B of the Local Self-Government Act.

At the same time a notice may issue under rule 77 or 75A of the Election Rules to the effect that immediately after the above meeting there will be held a meeting of the members who have taken the oath for the transaction of the following business, viz., the election of Chairman and Vice-Chairman.

The district and local boards in your division may be informed accordingly.

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*Memo. Nos. 6756-6759 L.S.-G. of the 7th December 1935.*

Copy forwarded to all Commissioners of Divisions (except Dacca), for information and communication to the district and local boards in their divisions.



**Oath of allegiance.**

*Ben., L.S.-G., order No. 1135P.—L.S.-G., of 29 10-1934, to Commr., Chittagong.*

With reference to your letter No. 5086G., dated the 20th October 1934, on the subject of the taking of the oath of allegiance by Khan Bahadur Jalaluddin Ahmed as a member of the Chittagong District Board, I am directed to say that Government are advised that in view of the express provisions of section 16B of the Bengal Local Self-Government Act, the Khan Bahadur should be deemed to have vacated his seat. The subsequent taking of the oath is of no effect, and there should be a by-election under sub-section (1) of section 19 of the Act.

**Oath of allegiance.**

*Ben., L.S.-G., order No. 2367L.S.-G. of 15-4-1936, to Commr., Dacca.*

I am directed to refer to your memorandum No. 1061J., dated the 26th February 1936, in connection with the question of making the oath of allegiance by the successor-in-office of an ex-officio member of a local board.

2. It appears that in August 1933, the Circle Officer (West), Munshiganj, was appointed ex-officio as a member of the Munshiganj local board and made the oath within the three months' time prescribed by section 16B of the Local Self-Government Act. In March 1935, he was succeeded by another Circle Officer who by virtue of his office automatically became a member of the local board. The latter, however, did not make the oath within three months of his transfer to the present post. The Chairman of the Dacca district board enquires whether the present Circle Officer is required to make the oath even when his predecessor-in-office made the oath and, if so, how the three months' time for making the oath should be calculated in his case—there being no fresh notification appointing him as a member of the local board.

3. In reply, I am to say that the making of the oath cannot be dispensed with in the present case as this would be against both the spirit and the letter of the law. Government are advised that the present Circle Officer should have made the oath within three months of the date of the notification appointing him to the office which made him a member of the local board. As he did not make the oath within this period he ceased to be a member of the local board, under section 16B (2) of the Local Self-Government Act. I am, therefore, to request that you will be so good as to take necessary action under section 19 (2) of the Act to fill up the vacancy, and to say that if you decide to re-appoint the Circle Officer as a member of the local board, he may be re-appointed by name.

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*Memos. Nos. 2368-2371L.S.-G. of the 15th April 1936.*

Copy forwarded to all Commissioners of Divisions (except Dacca), for information.

## Opinions on legal questions.

### Procedure for making references by local bodies to Legal Remembrancer for opinions on legal questions.

*Ben., Mun., Nos. 402-06T.—M. of 28-9-1915 to Commrs.*

I am directed to address you on the subject of the procedure under which references for opinions on legal questions should be made by Chairmen of municipalities. No official directions on this subject appear to have been issued hitherto, but in practice the Chairmen of these bodies have been regarded as authorized to refer questions of general administration for legal advice to the Superintendent and Remembrancer of Legal Affairs, Bengal, through the District Officers and the Commissioners of Divisions. It has been represented to Government, however, that references are also made to the Legal Remembrancer direct, and that in such cases he realises a fee of Rs. 85 from the local authority concerned, the fee so realized being credited to Government.

2. I am to say that the Governor in Council has now been pleased to direct that references from Chairmen of municipalities will not be accepted by the Legal Remembrancer unless they are made through the District Officer. If the subject-matter does not affect general administration, municipalities, like private persons, should consult a local pleader or the Advocate-General direct according to the importance of the subject, paying the necessary fees. If, however, the matter affects the provincial administration of municipalities, the Chairman should make the reference to the District Officer, who may consult the Legal Remembrancer or the Government (through the Commissioner) as he thinks necessary. No fee will be charged by the Legal Remembrancer for such references.

3. I am to request that the above instructions may be communicated for the guidance of the municipalities in your Division.

*Ben., L.S.-G., Nos. 282-86T.—L.S.-G. of 21-9-1923, to Commrs.*

I am directed to refer to this Department circular Nos. 402-06T.—M., dated the 28th September 1915, on the subject of the procedure to be adopted by the Chairmen of municipalities in making references to the Legal Remembrancer on points of law. At present District Boards, unlike municipalities, have the services of the Legal Remembrancer for looking after their litigation, free of charge. This is a relic of the days when the District Magistrate was their Chairman. Circumstances have, however, altered now and District Boards are at present free to a great extent from official control and have got their own non-official Chairmen, and should now be responsible for their own litigation. The Government of Bengal (Ministry of Local Self-Government), therefore, consider that the procedure prescribed for municipalities in this respect should be followed with regard to District Boards also.

2. I am accordingly to state that in matters of ordinary local administration the Chairmen of District Boards should henceforth, like private persons, consult a local pleader or the Advocate-General direct

in accordance with their requirements and after payment of the necessary fees. But in cases affecting the general administration of District Boards and which can be regarded as matters of provincial importance, the Chairman should communicate with the District Magistrate who may either consult the Legal Remembrancer or address Government on the subject as he thinks fit. No fee will be charged by the Legal Remembrancer for such reference.

3. I am to request that the above instructions may be communicated to the Chairmen of District Boards in your Division.

*Ben., L.S.-G. Nos. 509-13 T.—L.S.-G. of 3-10-1925, to Comms.*

At the instance of the Legal Remembrancer Government directed that for the words "who may consult the Legal Remembrancer or the Government (through the Commissioner) as he thinks necessary" occurring in paragraph 2 of circular No. 402-406 T.—M., dated the 28th September 1915 and for the words "who may either consult the Legal Remembrancer or address Government on the subject as he thinks fit" in paragraph 2 of circular No. 282-86 T.—L.S.-G., dated the 21st September 1923, the words "who may consult the Legal Remembrancer (through Government)" should be substituted.

### **Interpretation of the term "occupation."**

*Ben., Mun., Cir. No. 4016M. of 29-8-1934, to Commr., Presidency.*

I am directed to refer to your letter No. 435M., dated the 6th March 1934, on the subject of the removal of the name of Mr. Sword from the electoral roll of the Baranagar Municipality.

2. The circumstances in which Mr. Sword's name was removed from the electoral roll are reported to have been as follows:—

Mr. Sword, an elected commissioner of the Baranagar Municipality, was out of India on leave granted by the municipal Chairman for about five months preceding the first general election of the municipality under the Bengal Municipal Act, 1932, held on the 29th March 1934. Mr. Sword, who is an employee of the Baranagar Jute Co., Ltd., was expected to return to Baranagar in February 1934, and he had left his furniture as also his motor car in his residence in the staff quarters of the company, which was kept ready for his occupation in the charge of his servants. The Registering Authority appointed under section 21 (1) of the Bengal Municipal Act, 1932, for the preparation of the electoral roll in connection with the general election, removed the name of Mr. Sword from the electoral roll on the ground that he was not qualified as a voter under section 23 (2) (iii) of the Bengal Municipal Act, 1932 (as amended by section 3 of Act IX of 1933), as the period of his residence immediately preceding the election was less than 12 months.

You request that legal opinion may be taken on this case, which is of considerable practical importance especially in the riparian municipalities where the jute mills and their staff play an important part in municipal matters.

3. In reply, I am to say that Government have obtained legal opinion and are advised as follows:—

The question whether, in the circumstances stated above, Mr. Sword was duly qualified as a voter depends upon the interpretation of section 23 (2), clause (iii) of the Bengal Municipal Act, 1932, as amended by Act IX of 1933. It appears that when Mr. Sword joined his appointment under the company, the free quarters were a part of the conditions of his service and that he was obliged to reside there; and during his actual stay in these quarters his occupation was exclusive. When Mr. Sword left India on leave, he left his furniture there, as also his motor car and the house was kept ready for his occupation in the charge of his servants. The word "occupation" has not been defined in the Act. According to the interpretation put upon this word in certain English cases, Mr. Sword, during his absence from India, would be deemed in the eye of law to be in occupation of the house. He was, therefore, duly qualified as a voter under the second alternative, mentioned in section 23 (2) (iii) of the Bengal Municipal Act, 1932, although he cannot be regarded as being a "resident".

4. I am to say that Government agree with the above opinion, and consider that Mr. Sword's name should not have been removed from the electoral roll.

*Memo. Nos. 4917-4920M. of the 29th August 1934.*

Copy forwarded to all Commissioners of Divisions (except Presidency) for information.

#### **Definition of the word "year."**

*Ben., Mun., Cir. No. 4830L.S.-G. of 4-10-1934, to Commr., Chittagong.*

I am directed to refer to your letter No. 1508G., dated the 28th March 1934, regarding the difference in the provisions of section 9 of the Local Self-Government Act, 1885, and rule 21 of the local board election rules in regard to the definition of the word "year", and to say that although the Bengal General Clauses Act, 1889, which is a later enactment, is not applicable to the provisions of the Local Self-Government Act, 1885, Government are advised that in the absence of any definition of the word "year" in the latter Act, the word means a year reckoned according to the British Calendar and that the rule-making powers of the local Government under section 138 of the Act, cannot be invoked for defining the meaning or import of the word "year" in section 9 (2). Since, however, it is considered to be most appropriate to determine the qualifications of voters for a local board in accordance with the "Bengali year" Government propose to amend sections 9 and 13 of the Act at the earliest opportunity. Pending such amendment of the Act steps are being taken to amend rule 21 of the election rules by deleting the word "Bengali" before the word "year".

*Memo. Nos. 4831-4835L.S.-G. of the 4th October 1934.*

Copy forwarded to all other Commissioners of Divisions for information.

## \* Pay.

**Emergency cut of 10 per cent. on the pay of employees of local bodies.**

*Ben., L.S.-G., Cir. Nos. 3039-3043 L.S.-G. of 12-7-1932, to Commrs.*

I am directed to refer to Finance Department Resolution No. 5872F., dated the 11th December 1931, as subsequently amended, introducing a temporary emergency cut of 10 per cent. on the pay of all officers serving under the local Government, subject to certain limitations, and to say that the Government of Bengal have since decided that with effect from the 1st July 1932 the 10 per cent. cut in pay should be applied similarly (allowance being made where necessary for income-tax), to establishments in the employ of local authorities under the administrative control of this department, the pay of which is fixed with your sanction or with the sanction of Government and met wholly or in part by contribution from Government.

I am accordingly to request that you will be so good as to ask the local authorities in your division to take necessary steps in the matter at once.

2. I am further to request that in view of the present general financial depression the attention of the local bodies may be drawn to the necessity for economy and the action taken by Government *inter alia* in the matter of reducing temporarily by 10 per cent. the pay of their officers, with the intimation that applications from local bodies for the introduction of a similar cut in the pay of their officers as a temporary emergency measure will be considered on their merits by Government where their approval is required under the law.

**Five per cent. emergency cut on pay of employees of local bodies.**

*Ben., Mun., Cir. Nos. 3813-3818 M. of 21-8-1934, to Commrs.*

In continuation of this department letter Nos. 310-15T.—L.S.-G., dated the 16th June 1933, regarding 5 per cent. emergency cut in the pay of the employees of local authorities under the administrative control of this department/the Calcutta Fire Brigade, I am directed to say that the cut should continue to operate for a further period of 12 months with effect from the 1st April 1934, subject to the same conditions and limitations.

*Memo. No. 3819M. of the 21st August 1934.*

Copy forwarded to the Accountant-General, Bengal, for information, in continuation of endorsement No. 316T.—L.S.-G., dated the 16th June 1933.

*Memo. No. 3820M. of the 21st August 1934.*

Copy forwarded to the Director of Public Health, Bengal, for information, in continuation of this department memorandum No. 317T.—L.S.-G., dated the 16th June 1933.

*Memo. Nos. 3821-3822M. of the 21st August 1934.*

Copy forwarded to the Chief Executive Officer, Calcutta Corporation/Chairman, Calcutta Improvement Trust, for information, in continuation of Government order Nos. 318-319T.—L.S.-G., dated the 20th June 1933.

**Withdrawal of the emergency cut on the pay of employees of local**

*Ben., L.S.-G., Cir. Nos. 3681-3685L.S.-G. of 22-6-1935, to Comms.*

In continuation of this department letter Nos. 3813-3818M., dated the 21st August 1934, regarding emergency cut in pay of employees of local bodies, I am directed to say that the emergency cut of 5 per cent. on the pay of the establishments in the employ of local authorities under the administrative control of this department, the pay of which is fixed with your sanction or with the sanction of Government and met wholly or in part by contribution from Government, will not be continued beyond the 31st March 1935.

I am to add that the attention of those local bodies who might have imposed a cut as an emergency measure in the pay of their officers referred to in paragraph 2 of this department circular Nos. 3039-3043-L.S.-G., dated the 12th July 1932, may be drawn to the action taken by Government and the advisability of restoring the cut so that there might not be an invidious distinction between the salaries in one part of their establishment and those in the other.

*Memo. No. 3686L.S.-G. of the 22nd June 1935.*

Copy forwarded to the Commissioner of Police, Calcutta, for information and necessary action with regard to the employees under the Calcutta Fire Brigade, in continuation of this department order Nos. 3813-3818M., dated the 21st August 1934.

*Memo. No. 3687L.S.-G. of the 22nd June 1935.*

Copy forwarded to the Director of Public Health, Bengal, for information, in continuation of this department memorandum No. 3820M., dated the 21st August 1934.

*Memo. Nos. 3688-3689L.S.-G. of the 22nd June 1935.*

Copy forwarded to the Chief Executive Officer, Calcutta Corporation, and the Chairman, Calcutta Improvement Trust, for information and necessary action, in continuation of this department memorandum Nos. 3821-3822M., dated the 21st August 1934.

*Memo. No. 3690 L.S.-G. of the 22nd June 1935.*

Copy, with copies of endorsements, forwarded to the Accountant-General, Bengal (through the Finance Department) for information in continuation of this department memorandum No. 3819 M., dated the 21st August 1934.

**Thumb impressions of illiterate methors and sweepers for wages paid to them.**

*\* Ben., Mun., Cir. 386-390 M. of 23-1-1937. to Commrs.*

I am directed to refer to Government order Nos. 6466-6470 M., dated the 20th August 1936, asking for a report on the proposed relaxation or amendment of rule 124 of the Municipal Account Rules in view of certain difficulties in obtaining the thumb impression of illiterate methors and sweepers for wages paid to them. From the reports received it appears that by far the majority of municipalities and local officers consider a relaxation of the rule not only unnecessary but also risky. The difficulties pointed out by others in obtaining the thumb impressions also do not appear to be insuperable as this is not at all a difficult process and hardly requires any amount of literacy. Any one of the methors, male or female, can put in his or her thumb impression, in the place and manner indicated by the disbursing officer or the sardar, without requiring the physical aid from anybody else. For the speedy disposal of payments in municipalities employing a large number of conservancy staff separate acquittance rolls may, if necessary, be kept for batches of sweepers and methors.

In these circumstances and in view of the fact that it is not considered safe to dispense with the thumb impressions in token of payment, Government do not propose to relax or amend rule 124 of the Municipal Account Rules. The municipal commissioners in your divisions may be informed accordingly.

*Memo. Nos. 391-392 M. of the 23rd January 1937.*

Copy forwarded to the Examiner of Local Accounts/Revenue Department of this Government for information.

**Power of local bodies to reduce or increase the pay of their employees.**

*Ben. L.S.-G. Cir. Nos. 2787-2791 L.S.-G. of 5-4-1933.*

I am directed to refer to (1) Circular Nos. 768-72 L.S.-G., dated the 4th March 1925 (see appointments), and (2) letter No. 430 M., dated the 9th February 1926, to the Commissioner of the Rajshahi Division (copies of which were forwarded to other Commissioners of Divisions) with endorsements Nos. 432-34 M. of the same date, in which it was stated that district boards and municipalities were competent to increase or reduce the salaries of their employees without the

sanction of the local Government or the Divisional Commissioner, although the creation of the appointments held by these employees required such sanction under the Acts governing those local bodies.

2. Government have recently had occasion to have the question re-examined in connection with a proposal for increasing the pay of a District Engineer from Rs. 800 to Rs. 1,000 in the sanctioned scale of Rs. 600—25—800 (efficiency bar)—1,000 per annum. Their legal advisers to whom the question was referred have held (a) that under proviso (i) to section 33 (i) of the Bengal Local Self-Government Act, 1885, the approval of the Divisional Commissioner is necessary to an alteration in the rates of pay of an appointment created with his approval, the new rates being still within the terms of the proviso, and (ii) that after an appointment on certain incremental rates of pay has been created by a board and approved by the Commissioner, the Commissioner's approval is required to the grant to the incumbent of a personal allowance or an incremental pay higher than that allowable under the terms of the appointment as originally approved.

3. Government fully accept the above view which also applies to appointments under municipalities the creation of which requires the approval of Government instead of the Divisional Commissioner, under proviso (ii) to section 66 of the Bengal Municipal Act, 1932. They are, therefore, pleased to cancel the orders cited in paragraph 1 above. I am to request that district boards and municipalities in your division may be informed accordingly.

*Memo. No. 27921, S.-G., of 5th April 1933.*

Copy forwarded to the Accountant-General, Bengal, for information in continuation of endorsement No. 435 M., dated the 9th February 1926.

## **Pension and Provident Fund.**

### **Model Pension and Provident Fund Rules by District Board and municipal employees.**

*Ben., Mun., Cir. No. 1 of 12-1-1891, to Comms.*

With the two circulars of Government, No. L-2R/13-52 and No. L-2R/13-59, dated the 25th July 1890, were issued sets of Model Rules regarding the pensions of persons employed under District Boards and under municipalities. The orders of Government discouraged, as far as possible, the grant of pensions to municipal establishments, but it was assumed that service under District Boards would ordinarily be pensionable, and both municipalities and District Boards were permitted to adopt the model rules, or rules based on them, subject to the approval of Government. In continuation of these orders I am now directed to communicate the following observations for the consideration of all local bodies concerned.



2. It is far from the intention of the Lieutenant-Governor to withdraw the permission already given, but at the same time Sir Charles Elliott desires me to recall to the attention of the members of Boards and District Committees that in the original orders of Government regarding the pensions of persons employed under Local Funds, which were published on the 29th October 1889, and will be found in the Supplement to the *Calcutta Gazette*, dated the 6th November of that year it was expressly pointed out that it will be at the option of any local body, in accordance with rules, which may have been duly framed and sanctioned for the purpose, either to create a Provident or Annuity Fund, and to compel contribution thereto on the part of their officers and servants merely supplementing such contribution out of local funds, or, if they should so prefer it, to grant pensions and gratuities out of their funds without insisting on any contribution. The first of the alternatives held out to local bodies was the establishment of a provident or annuity fund, and it appears to the Lieutenant-Governor that there are many grave considerations which should be duly weighed before this alternative is rejected.

3. The principle consideration is that of economy. Pensions are deferred pay, and by the grant of a right to pension, the members of a Board or Committee burden posterity with an obligation which may fall very heavily on their finances. The pensionary claims of officials of the class under discussion are calculated by the Financial Department of the Government of India at rates varying from 11 to 12½ per cent. of their pay (see articles 809 and 863 of the Civil Service Regulations); and this therefore may be assumed to be the liability which the admission of such establishment to pensionary rights entails on posterity. For every one thousand rupees therefore that a District Board pays to its establishment, it condemns its successors to pay Rs. 116 to Rs. 125 for non-effective service. Whenever a Board or Committee is now paying Rs. 1,000 in salaries, thirty years hence that Board or Committee will have to pay for the same number of clerks at the same rate of salary one-eighth or one-ninth more, because it will have to meet the pensions of retired servants as well as the pay of those performing actual service. Considering how limited the funds are with which the Boards have to deal, this further encroachment on their resources will be severely felt and will be a serious curtailment of their power to carry out useful work, whether in respect of roads, or schools, or sanitation, or any other object of the kind.

4. The second consideration is that of efficiency. The pensionary system has its advantages, but it has also grave drawbacks. It tends to encourage honesty in dealing with money, acting thereby as a security deposit; but it also tends to encourage idleness and inefficiency. A good servant is protected from capricious dismissal by the fact of his service being pensionable; but a bad and inefficient servant is also protected from well-deserved dismissal so long as he steers clear of any definite overt act of insubordination or wrong-doing which would justify such a punishment. A non-pensionable clerk is the servant of his master; a pensionable clerk is not so, but is often master of the situation. It is not generally known that all service under the Government Railway Administration since 1880 has been made non-pensionable, and with the best results: the Government finds no difficulty in obtaining employees on the same scale of salaries as was paid before

to pensionable men, while the work done by them has improved, inasmuch that excellent judges have declared that they would undertake to go round an office and pick out the pensionable from the non-pensionable clerks,\* the work of the latter being always better than the former.

5. It will, of course, be understood that it is not contemplated that no provision should be made for the old age of a clerk. The scheme which the Lieutenant-Governor desires to suggest for the consideration of local bodies is that a provident fund should be established, to which an employee should be compelled to contribute at the rate, say, of five per cent. of his salary, and that it should be optional to a District Board or Municipal Committee to assist him by a contribution of half that amount. Sir Charles Elliott would be glad if this, the first of the alternatives originally put forward by the Government of Bengal, were adopted in preference to the other system of universal pensionable service on the model of the Pension Code. The provident fund is, indeed, a system which has many advantages. No liability is entailed on posterity, for the Board's contribution would be paid month by month along with the salary. The sum contributed by the Board would be  $2\frac{1}{2}$  per cent. instead of averaging about 12 per cent. The official concerned has these amounts credited to him monthly in a savings bank account. When he leaves the service, he takes with him the amount to the credit of his account with interest and profits accruing thereon, and when he dies his children or widow enjoy the benefit; but if he is dismissed for inefficiency or improper conduct, the portion contributed by the Board can be confiscated. This, in brief, is the principle of a provident fund. The details of the principle, if accepted, can be subsequently adjusted.

6. Sir Charles Elliott desires that all District Boards and municipalities should now have these observations placed before them for their consideration. They do not apply to the first and second class of cases in the Model Rules, that is to say, to employees, whose whole service has been or will be under a District Board or Municipal Committee. But it is the wish of the Lieutenant-Governor that every Board and municipality should settle in the first place whether they desire that these employees, whose whole service is under them, should be on pensionable service under the Model Rules, or on the Provident Fund as described in this letter, and that, in the case of every employee subsequently engaged, a definite contract should be entered into with him distinctly providing to which system his service is to belong.

7. I am to add that Model Rules for the administration of a provident fund are under preparation, and will be issued for the guidance of local bodies as soon as they can be got ready.

*Ben., Mun., Nos. 789 of 18-4-1891, to Commr., Bhagalpur.*

I am directed to acknowledge the receipt of your Memorandum No. 254L.W., dated the 2nd March 1891, with its annexures, addressed to the Public Works Department in which, with reference to rule 8, Part III of the Model Pension Rules for District Boards circulated with Government letter No. L-2R/13-52, dated 25th July 1890, enquiry is made whether it was intended that a Government compensation pensioner, who takes up service under a District Board should be precluded from earning a further pension for such service.

2. In reply, I am directed to say that there can be no doubt that it was deliberately intended by Government that no Government pensioner of whatever kind or description should be able to earn a second pension for service under a local fund. Such a pensioner need not take service under a local fund unless he considers the salary offered without prospect of a second pension sufficient.

*Beng., Mun., Cir. No. 34M. of 16-12-1895, to Commrs.*

It has long been a well-established and well-known rule that service under a municipality does not carry with it claim to pension or gratuity; and although Government, in the notification, dated the 9th February 1877, published at page 211 of the *Calcutta Gazette* of the 14th idem, made an exception in favour of such employes as may have special claims, the integrity of the general principle has always been maintained.

2. When the present Municipal Act became law, section 47 provided that the Commissioners of a municipality might, subject to certain restrictions, make rules for the granting of pensions and gratuities out of the municipal fund; but lest that power should be exercised injudiciously, section 59 further provided that any resolution passed under section 47 should be subject to the approval of the local Government. Several municipal bodies have taken advantage of the powers given by section 47; but the Lieutenant-Governor, as has been stated in paragraph 4 of the Government order No. L-2R 13-59 of the 25th July 1890, has decided that such rules, when sanctioned, are to be prospective only, and are not to confer on persons in the service of the municipality, when the rules were sanctioned, any claim for pension or gratuity on account of service rendered before that date.

3. Notwithstanding these orders, however, special representations are not infrequently made to Government by municipalities, the rejection of which is considered a hardship; and the Lieutenant-Governor therefore thinks it well to draw the attention of Municipal Commissioners to article 867 of the Civil Service Regulations in order that, when special representations for the grant of a pension are considered appropriate, they may be based upon the provisions of that article and submitted for the orders of Government with reference thereto. Full particulars of rules of the Postal Department relating to the purchase of pensions or annuities may be obtained from that Department.

*Beng., Mun. (L.S.-G.), No. 5296 of 25-8-1898, to Chairman, Dist. Board, Patna.*

In reply to a reference made by the District Board of Patna, the Government of Bengal informed, on the basis of the Advocate-General's opinion, dated the 10th August 1898, shown below, that provident funds established by District Boards are not exempt from attachment under a Civil Court decree:—

#### *Opinion.*

Section 35 of Act III (B.C.) of 1885 authorises a District Board to make rules for pensions and gratuities, but does not allow a District

Board to establish provident funds. Such being the case, the application of the provisions of Act IX of 1897 (Provident Fund Act) will not avail, as there is not in existence any legal and valid provident fund for the employees of District Boards.

*Ben. Mun. Cir. No. 19T. M. of 1-10-1902, to Commsr.*

In Government circular No. 2M., dated 6th January 1902, the attention of Commissioners of Divisions was drawn to the inconvenience of the existing procedure under which any case in which it was proposed to give a pension or gratuity to servants of municipalities or District Boards, who were not provided for under the Provident Fund Rules, had to be referred to Government for special sanction. It was pointed out that such cases would in the nature of things continue to increase, and it was suggested that it might be desirable to adopt some rules with the object of providing for employees of this class either on the lines of Government Pension and Gratuity Rules or on those of the existing Provident Fund Rules, and the opinion of Commissioners of Divisions and of local bodies was invited on the subject.

2. Under present arrangements all applications for the grant of pensions and gratuities to local fund employees which are not covered by the rules in force, are submitted to Government. Government, however, is not in a position to deal with them satisfactorily, as full details are in some cases not given and the arrangements for keeping a record of the services of the employee, for whom pension or gratuity is proposed, are not complete. It is probable that, especially in the case of District and Local Boards, applications for gratuities in the case of inferior servants may become more frequent in future, and both in their case and in that of municipalities it is desirable to place the matter on a better footing. The opinions received in response to the Circular of 6th January show that there is, in some cases, a feeling that provision should be made for pensions or gratuities to employees drawing less than Rs. 15 per mensem who do not come under the Provident Fund Rules. In other cases local bodies are disposed to adhere to the well-established principle, stated in Circular No. 34M., dated 16th December 1893, that service paid from a local fund does not carry with it a claim to pension or gratuity. But the frequent applications for gratuities which have been received by Government, in the case of employees other than those provided for by the adoption of Provident Fund Rules, show that rules in their cases are necessary.

3. In reply to the inquiries made in the circular of the 6th January 1902, it has been suggested that participation in the benefits of the provident funds should be extended to employees drawing not less than Rs. 10 a month, or even to all employees, or that it should be made optional for employees drawing less than Rs. 15 a month; it has also been suggested that gratuities or pensions on similar lines to those of the provision contained in Article 524 of the Civil Service Regulations should be allowed to employees in inferior service. After considering the replies, the Lieutenant-Governor is of opinion that it is for the local bodies to determine whether they propose to extend the system at present in force, and, if so, what system of pensions or gratuities they wish to introduce. Such proposals will be duly considered by Government. The suggestions which commend themselves to the Lieutenant-Governor are that contribution to the provident fund might be made compulsory

for all employees drawing not less than Rs. 10 per mensem on their admission to service, while for others gratuities and pensions on the scale and conditions of Article 524 of the Civil Service Regulations might be allowed. Such advantages should not, however, be generally extended to the menial establishments of the Conservancy, Road or Drainage Departments, and the rules should provide adequately for keeping a complete record of service.

4. It should be understood that, unless such rules are framed for any District Board or Municipality, no pension or gratuity can be given without the special sanction of Government, and that such sanction will not be given unless sufficient information is available as to continuity of service and other qualifications for pension and gratuity, as laid down in the Civil Service Regulations, to enable the claim to be as clearly established as in the case of Government officers.

*Ben., Munl., No. 1512, and Cir. No. 25M. of 21-3-1905, to Commrs.*

I am directed to acknowledge the receipt of your letter No. 250M., dated the 17th January 1905, in which you submit for the orders of Government the question whether the tax-daroga and cashier of the Baranagore Municipality is eligible to subscribe to the provident fund established by the municipality. The daroga receives a monthly pay of Rs. 10 and a commission of 14 per cent. on actual collections up to a maximum limit of Rs. 872 a year.

2. In reply I am to say that the Accountant-General has been consulted in the matter and to enclose a copy of the opinion recorded by him. It will be seen that he holds that the distinction between inferior and superior service in the Provident Fund Rules is the same as that in the Civil Service Regulations. The Civil Service Regulations do not recognise commission as part of pay, and therefore the tax-daroga whose pay does not exceed Rs. 10 must be treated as an inferior servant and ineligible to contribute to the provident fund.

3. I am to say that the opinion of the Accountant-General has been accepted by the Lieutenant-Governor, and to ask that the ruling may be communicated to the municipalities in your Division.

*Opinion by the Accountant-General, Bengal, dated the 14th February 1905.*

The distinction between superior and inferior service was intended to be that laid down in the Civil Service Regulations, *i.e.*, that servants getting pay of over Rs. 10 should be considered as superior and those getting Rs. 10 or less as inferior. In the case under discussion, the tax-daroga is undoubtedly an inferior servant as his pay does not exceed Rs. 10. The Civil Service Regulations do not recognise commission as part of pay for the purpose of deciding whether a man is superior or inferior. Article 392 (b), Civil Service Regulations, does not affect the question.

*Ben., Genl. (Mund.), Nos. 2100-46M, of 28-11-1913, to Commsrs. and A.-G., Bengal.*

I am directed to forward revised model rules\* for the management of the provident funds maintained by District Boards and municipalities in Bengal, and to request that the District Boards and municipalities in your division may be asked to adopt them in lieu of their existing rules.

2. It has been suggested that the provisions of the Provident Fund Act, IX of 1897, should be extended to the provident funds established by local bodies in this Presidency so as to place the deposits in those funds beyond reach of attachment by the civil courts. With reference to this I am to say that section 6 of the Act refers to provident funds lawfully established by local authorities. Municipal Provident Funds in Bengal have been so established under section 47 (b) of the Bengal Municipal Act, 1884, but it has been held that the provident funds established by District Boards have not the sanction of law, and that therefore the application of the provision of the Provident Fund Act will not avail to protect the deposits in those provident funds from attachment by a civil court. By the Bengal Act V of 1908 a section (35A) has been added to the Local Self-Government Act of 1885, authorising District Boards to establish provident funds for their employees. It is in contemplation to extend the Amending Act of 1908 to the District Boards in Eastern Bengal, and as soon as this is done the District Boards in your Division should be asked to take the necessary steps formally to establish their provident funds with your sanction under that section. When these funds have thus been legally established a report should be submitted to Government so that a recommendation may be made to the Government of India for the extension of the Provident Fund Act, IX of 1897 to the provident funds established both by District Boards and municipalities†.

### **Grant by Municipalities and District Boards of pensions or Gratuities to their employees.**

*Ben. Mund. Cir Nos. 803-47M, of 4-7-1918.*

I am directed to communicate the following orders of Government regarding the grant by municipalities and District Boards of pensions or gratuities to their employees in respect of services prior to the adoption of rules for the grant of pension and gratuity or to the establishment of provident funds by those bodies.

2. Section 47 of the Bengal Municipal Act, 1884, authorizes municipalities to grant pensions or gratuities to their servants in accordance with rules made under clause (a) of that section and approved by Government under section 59, while section 53 (fourthly) of the Local Self-Government Act, 1885, gives authority to District Boards to make similar payment out of the district fund in accordance with rules made and sanctioned under section 35. The making of rules by local bodies is, therefore, an essential condition precedent to the payment of pensions or gratuities to their employees.

\*Not printed as they are embodied in Collier's Municipal Manual.

†The Act was extended under India Government, Education Department, Notification No. 91 of the 23rd May 1916.

3. Government have on several occasions granted sanction, as special cases, to the payment by municipalities and District Boards of pensions and gratuities to employees for services rendered prior to the adoption of pension and gratuity rules, or to the establishment of provident funds. It has recently been pointed out, however, that such payments are illegal, and that this defect cannot be remedied by the sanction of Government. Government will accordingly not be prepared to pass similar orders in such cases in future. I am to request that this decision may be communicated to the municipalities and District Boards in your division, and that they may be informed that they are not competent to grant pensions or gratuities to their employees in respect of services prior to the adoption of rules for the grant of pensions and gratuities or to the establishment of a provident fund.

**Model rules for the grant of extraordinary or compassionate gratuity to employees of local bodies.**

*Beng. Mun., Cir. Nos. 6958-6962M. of 12-12-1933, to Commrs.*

I am directed to refer to Government circular No. 16L.S.-G., dated the 19th March 1903, forwarding for adoption by district boards and municipalities a set of model rules for the grant of pensions and gratuities to their inferior servants and to say that section 35 of the Local Self-Government Act, 1885, as amended in 1932 and clauses (a) and (b) of section 69 (1) of the Bengal Municipal Act, 1932, provide for the grant of extraordinary or compassionate gratuity to the employees of the district boards and municipalities or to their heirs or families. I am accordingly directed to forward for the guidance of the local bodies concerned a model rule which has been framed by Government to give effect to the new provisions of the two Acts and to request that the local bodies in your division may be requested to adopt the rule with the necessary sanction, subject to such minor changes as they deem necessary.

*Grant of extraordinary or compassionate gratuity.*

X. If an employee is disabled, crippled or killed in the courses of his employment, the board may grant him or his heir or next of kin/the members of his family, as the case may be, an extraordinary gratuity on the following scale.

Provided that the extraordinary gratuity shall not be granted to those employees (or to their heir or next of kin/the members of their families) to whom Workmen's Compensation Act, 1923, applies and who claim compensation under that Act.

The rule takes effect from.....

*Scale.*

- |  |  |
|--|--|
| (i) If the employee is permanently disabled  | A gratuity not exceeding 24 months' pay.                 |
| (ii) If the employee sustains partial disablement rendering him unfit for reversion to his former occupation and for whom no other suitable employment can be found. | A gratuity not exceeding 12 months' pay.                 |
| (iii) In the case of an heir or next of kin/the members of the family of an employee, killed or dying of injuries received.  | A gratuity not exceeding 24 months' pay of the employee. |

The gratuity admissible shall in every case be subject to a maximum of Rs.....

*Note.*—For the purposes of this rule “pay” means—

(i) the average monthly pay earned by the employee during the last 12 months of his service if his service is not less than 12 months, and

(ii) the average monthly pay earned by the employee during the whole service if it is less than 12 months.

**Article 802 of the Civil Service Regulations does not apply to individual members of Local Fund Establishments.**

*Ben., L.S.-G., No. 4458 L.S.-G. of 24-11-1922, to India, Edu., Health and Lands.*

I am directed to submit the following case for the favourable consideration and orders of the Government of India.

2. The services of Babu Bhuban Mohan Das, second clerk of the Magistrate's office, Hooghly, were transferred by this Government to the District Board of Rajshahi under article 803, Civil Service Regulations, with effect from the 31st March 1909, but he was allowed to retain a lien on his appointment under Government. As a consequence of this transfer the District Board paid his pension contributions under articles 755 (a) (ii) of the old Foreign Service Rules of the Civil Service Regulations at the rate of Rs. 3-2 a month calculated at one-eighth of Rs. 25, the pay of his appointment under Government at the time of the transfer, on which he would receive pension on retirement. He was appointed by the District Board as Head Clerk and Accountant of the District Engineer's office on a pay of Rs. 70-7-2-105 a month, although he was actually paid at different rates ranging between Rs. 60 and Rs. 72 a month during the earlier part of his service under the Board. After he had served the District Board for nearly ten years, the Board applied to Government for the permanent transfer of his services, the District Board agreeing to pay the pensionary contributions at one-ninth of his pay under the Board as required by article 802 of the Civil Service Regulations and rule 5 of the General Rules relating to pensions for employees under local funds in Bengal which had been adopted by the District Board and sanctioned by this Government with the approval of the Government of India conveyed in Home Department letter No. 22, dated the 16th October 1889. Government accordingly sanctioned the permanent transfer of the services of Babu Bhuban Mohan Das to the District Board with effect from the 31st October 1919. The lien on his appointment in Government service was forfeited and the District Board was directed to pay from that date the monthly contributions towards his pension at the rate of one-ninth of his sanctioned pay as required by article 802. The District Board has since been paying his pension contributions into the local treasury at this rate.

3. As will appear from the enclosed copy of his note, dated the 13th July 1922, the Accountant-General, Bengal, has objected to this arrangement on the ground that rule 5 of the rules cited above does not govern the present case, since these rules are intended to apply only to the members of the pensionable establishment of a department under Government who are transferred to a District Board and who were in the



establishment of the department at the time of their transfer, *e.g.*, educational officers in the medical, pound, ferry and staging bungalow establishments who have been transferred to and become part of a District Board establishment. He is also of opinion (*vide* his letter No. P. R.—761, dated the 19th August 1920, a copy of which is enclosed) that article 802, Civil Service Regulations, does not apply in this case inasmuch as the District Board made no permanent arrangements with Government for contributing for pensions from general revenues either for its permanent employees as a whole or for any class of them, and as the bills on which such establishment charges are drawn are not subject to his audit under the rules prescribed for the audit of Government establishment charges and are not paid directly from the treasury, but by cheques drawn on the treasury. The case must therefore either be treated as one of transfer to foreign service under article 803, Civil Service Regulations, or, if in the alternative article 802 is applied, the sanction of the Government of India must first be obtained.

4. Cases of transfers under article 803 are subject to the same limitations and conditions as are applicable to transfer to foreign service. Under these conditions Babu Bhuban Mohan Das would receive pension on retirement only on his assumed pay, *viz.*, Rs. 25 a month [articles 755 (a) (ii) and 779 (b)], and thus would be deprived of the advantages of his increased pay under the District Board in the matter of his pension. This would entail great hardship on him, in view of the fact that as he will earn a pension from Government he will not be entitled to the benefits of the provident fund established by the Board. I am therefore to request that the Government of India may be moved to permit this Government to treat his case as one under article 802, Civil Service Regulations. The District Board has agreed to pay to Government the difference amounting to Rs. 666-7-1 between one-ninth of the pay drawn by the officer from the District Fund from the 31st March 1909 to the 30th October 1919, and one-eighth of his assumed pay of Rs. 25 a month at which rate his pension contributions were actually levied during that period.

*Note by the Accountant-General, Bengal, dated the 13th July 1922.*

Rule 5 of the draft General Rules relating to pensions for employees under local funds in Bengal is not applicable to cases like that of Babu Bhuban Mohan Das. If rules 4 and 5 are read together it will be seen that these rules are included only for the members of the pensionable establishment of a department under Government who are transferred from Government to a District Board and who were in the establishment of the department at the time of its transfer to the District Board, *e.g.*, educational officers, officers in the medical, pound, ferry and staging bungalow establishments who have been transferred to and become part of a District Board establishment. Therefore, neither rule 5 of the draft General Rules relating to pensions for employees under local funds in Bengal nor article 802, Civil Service Regulations, can be made applicable to the case of Babu Bhuban Mohan Das. The case should therefore be treated as a case of transfer to foreign service under article 803, Civil Service Regulations, otherwise the use of article 802, Civil Service Regulations, will require the sanction of the Government of India as already decided by Mr. Parsons on 4th December 1919.

*No. P.R.—761, dated the 19th August 1920, from the Accountant-General, Bengal, to the Secretary to the Government of Bengal, Municipal Department.*

With reference to the Government of Bengal, Municipal Department, order No. 3697M\*, dated the 31st October 1919, sanctioning the permanent transfer of Babu Bhuban Mohan Das to the Rajshahi District Board and fixing the monthly contribution towards his pension at one-ninth of his sanctioned pay under article 802, Civil Service Regulations, I have the honour to state that so far as the records of this office show the Rajshahi District Board has made no permanent arrangement with Government for contributing for pensions from General Revenues either for its permanent employees as a whole or for any class of them. Furthermore, the bills on which such establishment charges are drawn are not subject to my audit, under the rules prescribed for the audit of Government establishment charges, and, as a matter of fact, the establishment bills are not paid directly from the treasury, but by cheques drawn on the treasury. In the circumstances the use of article 802, Civil Service Regulations, requires the sanction of the Government of India.

2. From records in my office it also appears that Babu Bhuban Mohan Das transferred to service under the Rajshahi District Board in 1909 (*vide* Municipal Department letter No. 1481L.S.-G., dated the 26th November 1909). If he had not subsequently reverted to Government service—and there is nothing in my records to show that he has done so—article 749A, Civil Service Regulations, applies and no revision of the previous orders governing the contribution payable towards his pension can be made.

*India, Edn., Health and Lands, No. 109 of 23-2-1924.*

In reply to your letter No. 44581L.S.-G., dated the 24th November 1923, I am directed to say that as article 802 of the Civil Service Regulations is not intended to be applied to individual members of local fund establishments, the Government of India regret that they cannot sanction its application to the case of Babu Bhuban Mohan Das. But they will have no objection to the grant to him under article 754, Civil Service Regulations, of a pension calculated on his actual pay under the Rajshahi District Board, if the Board is prepared to pay out of its funds the difference between such pension and that which will be due from Government under the Foreign Service Rules.

## Police.

**List of miscellaneous duties which the police in this province or in parts of the Province have hitherto been called upon to perform.**

*Memo. Nos. 952-968Pl., dated the 12th March 1936, by the Deputy Secretary to the Government of Bengal, Police Department.*

Copy of the following, with a copy of the list, forwarded to other departments of Government for information and necessary action, in continuation of this department endorsement Nos. 155-160Pl., dated the 9th January 1929.

*Nos. 947-951P., dated 12th March 1936, from the Deputy Secretary to the Government of Bengal, Police Department, to all Commissioners of Divisions.*

In continuation of Mr. Blair's letter Nos. 150-54Pl., dated the 9th January 1929, I am directed to forward herewith a further list showing the miscellaneous duties which the police in this province are at present called on to perform and the extent to which they should be relieved of those duties.

2<sup>e</sup> I am to request that the list may be circulated to all District Officers in your division for information and guidance.

*Circular Nos. 7308-7312L.S.-G. of the 18th September 1936.*

Copy forwarded to all Commissioners of Divisions for information and communication to municipalities and union boards in their Divisions.

List of miscellaneous duties which the police in this province or in parts of the province have hitherto been called upon to perform.

Nature of duty.	Order of the Local Government.
1. Serving miscellaneous orders on Presidents of Union Boards.	The normal channel of communication should be the Post Office.
2. Notices on the Presidents of Union Boards for the preparation of electoral rolls for the reformed Provincial Legislative Council.	This work should be done by the police.
3. Enquiries about pension-holders	These enquiries should be made by police in towns and Circle Officers in rural areas.
4. Enquiries about petitions submitted by prisoners to Magistrates regarding domestic affairs.	These enquiries should be made by police in towns and Presidents of Union Boards in rural areas.
5. Rendering assistance to officers and men of the civil courts in attaching properties under civil court decrees.	This should be done by the rural police, police help being taken only when breach of the peace or resistance is apprehended.
6. Rendering assistance to Sanitary Inspectors and vaccinators for vaccinating villagers.	This should be done by the rural police and Presidents of Union Boards ordinarily and by police in case of likelihood of breach of the peace.
7. Enquiry regarding registration of motor cars	This work should be done by the police.
8. Helping Assistant Publicity Officers to organise Government Cinema shows.	Help should be given by the Circle Officer and Presidents of Union Boards.
9. Notices sent by Government Receivers of Zemindari estates.	These notices may be served through Presidents of Union Boards.
10. Execution of fine warrants, i.e., section 113 of the Railway Act.	Present practice as provided in rule 635 of the Police Regulations, Bengal, Volume I, may continue.
11. Enquiry regarding heirs of persons (after death) who used to pay income-tax.	This should be done by Presidents of Union Boards.
12. Service of summons to private persons	With the exception of the work referred to in item No. 2 of Government order No. 170Pl., dated the 9th January 1929, the service of summons should be made over to Presidents of Union Boards but in cognizable and Crown cases the summons should be served through police if in the opinion of the Magistrate there are special reasons to justify this course.
13. Submission of a statement regarding blind, deaf, etc., to the Subdivisional Officer.	This may be done by Presidents of Union Boards and the Chairman of Municipalities.
14. Service of notices regarding explosive shops	Should ordinarily be served through the Post Office, but the licensing authorities will have discretion to get served through police notices under rule 56 intimating refusal to renew a

Nature of duty.	Order of the Local Government.
16. Enquiries regarding character of Military Contractors (periodical reports on the political attitude of the approved contractors of the Presidency and Assam District).	These enquiries should continue to be made by the police as at present.
16. Enquiry regarding character of applicants for permission to enter Sikkim.	Ditto.
17. Enquiries regarding antecedents of menial servants of the Military authorities of Jalapahar and Lebong.	Ditto.
18. Enquiries regarding antecedents of menial servants of Government at Delhi and Simla.	Ditto.
19. Enquiries regarding antecedents of menial servants of Jail wardens.	Ditto.
20. Verification of statements of applicants for India and Burma Military and Marine Relief Fund.	Ditto.
21. Enquiries regarding overstays of leave of sepoys of Indian Regiments.	Ditto.
22. Enquiries about whereabouts of members of families of sepoys of Indian Regiments.	Ditto.

**Indemnification by the municipalities of the Post and Tele. Dept. against any loss in the working of the Post and Tele. Office, etc.**

*Ben. Mun. Cir. Nos. 4314-4318M. of 12-7-1937, to Commrs.*

It has been brought to the notice of Government that a certain municipality entered into a covenant with the Secretary of State through the Post and Telegraph Department indemnifying the latter department against any loss in the working of the Post and Telegraph office which was established in pursuance of the agreement. Payments to meet the deficiency were made by the municipality for a few years. Subsequently payments having been stopped by the municipality, the Secretary of State brought a suit against the municipality. The suit was eventually compromised on a payment of Rs. 2,000 and it was only at this stage that the commissioners approached Government for sanctioning the payment of the amount from the municipal fund.

Sanction of Government was accorded in the special circumstances of the case under the provisions of clause (xxxvi) of section 108 (1) of the Bengal Municipal Act.

The Government of Bengal are of opinion that the municipality was neither competent to enter nor justified in entering into an agreement of the nature mentioned above with the Secretary of State without first obtaining the sanction of local Government under the above clause. I am to request that you will be so good as to impress upon all municipalities in your division that such guarantees do not come within the scope of the Bengal Municipal Act unless given with the previous sanction of Government obtained under the clause cited above.

**Pound.**

**Pound forms and pound kabuliyat forms.**

*Ben., L.S.-G., Cir. Nos. 3035-3039 L.S.-G., of 20-7-1932, to Commrs.*

In continuation of Government Circular Nos. 3612-3616 L.S.-G., dated the 19th November 1929, I am directed to say that after considering the replies received Government have decided to introduce the

enclosed set of pound forms A to D and pound kabuliyat form for use by union boards in the Province. Copies of the forms in English, together with a set of instructions regarding their use, are sent herewith for distribution to the union boards in your division which have pounds under their management. A Bengali version of these instructions and forms is being prepared and will be supplied as soon as printed.

2. I am to add that the opportunity has been taken of modifying in the manner shown below the following pound forms prescribed in Government Circular No. 3T.—M., dated the 22nd May 1893, for use by the police authorities in connection with the management of pounds belonging to municipalities and district boards. These forms as now modified should also be used by the same authorities in the management of pounds under union boards:—

(1) *Form C.*—Under rule 146, Police Regulations, Bengal, Volume I, a receipt in Bengali form No. 39 is granted and the police receipt cheque number can be noted in column 16 of Form G. Form C is therefore redundant and is abolished.

(2) *Form G.*—The heading of column 15 of Form G shall be changed to "Number and date of the police office receipt cheque."

(3) *Form I.*—This form contains nothing which is not available in Form G and when the balance of sale proceeds is to be returned to the owner, an account as laid down in section 16 of the Cattle Trespass Act, 1871, can easily be prepared from Form G. Form I is therefore abolished.

### **Control and management of pounds by district boards.**

*Ben., L.S.-G., order No. 3086L.S.-G., of 20-4-1933, to Commr., Presy. Division.*

I am directed to refer to the correspondence resting with your letter No. 1447L.S.-G., dated the 6th June 1932, regarding transfer of the management of pounds to union boards in the district of Nadia.

By notification No. 970L.S.-G., dated the 10th March 1932, the functions of the District Magistrate under Chapters II and III of the Cattle Trespass Act relating to the establishment of pounds, etc., which had hitherto been exercised by the district board, were transferred to union boards in the district of Nadia. This gave a rise to certain questions by the Chairman of the district board as to the district board's power of control or supervision over union boards in the management of pounds, in reply to which you informed the Chairman that the establishment of new pounds, the settlement of pounds, and the remission of pound rents by union boards would no longer be subject to the approval of the district board. On receipt of your reply the district board passed a resolution on the 1st June 1932 that, as one-half of the income from the pounds was payable to the board, the settlement of pounds and the remission of pound rents ought to be subject to its confirmation and approval, as otherwise its income would be seriously affected. This was followed by a deputation consisting of the Chairman and the Vice-Chairman of the district board which waited upon the Hon'ble Minister in charge of Local Self-Government and put forth various arguments in support of the resolution.

3. In reply, I am to observe that the proposals of the district board would involve withdrawal of the Government notification cited above. This would not only be against the policy of local self-government that union boards should gradually be invested with wider powers and greater responsibility, but would also be inconsistent with the provisions of the Cattle Trespass Act under which the union board is as much a local authority as the district Board and is in no way subordinate to the latter so far as the administration of pounds is concerned.

As regards the apprehension that union board will grant unnecessary remission and thereby reduce the surplus from the pounds, I am to observe that under rule 1 of the account rules framed under the Village Self-Government Act, Circle Officers are required to scrutinise such remissions in their audit reports and that this affords sufficient check against unnecessary remission being granted by union boards. If, however, union boards are found to be misusing the powers granted to them under the Cattle Trespass Act steps can always be taken in each individual instance. In the circumstances the Government of Bengal (Ministry of Local Self-Government) regret their inability to accede to the proposals of the district board and I am to request that the Chairman of the board may be informed accordingly.

#### **Transfer of pounds and ferries to local boards.**

*Ben., L.S.-G., order No. 6599 L.S.-G. of 29-11-1935, to Commr.,  
Rajshahi.*

I am directed to refer to your letter No. 303P.W., dated the 25th September 1934, regarding the transfer by certain district boards in your division, under section 101 of the Local Self-Government Act, 1885, of ferries and pounds to the control and administration of local boards subordinate to them. You enquire (i) whether in view of the wordings of section 101 of the Act referred to and the fact that neither the ferries nor the pounds were placed under the control and administration of the respective district boards, under the provisions of the Local Self-Government Act, the transfers actually made were in accordance with law, and (ii) whether on the ground of mismanagement by local boards, the district boards can take back the control and management of the pounds and ferries.

2. In reply, I am to say that Government are advised that as the Bengal Ferries Act provide for the transfer of ferries only to district boards, their transfer by district boards to local boards were illegal as the power of further transfer cannot be relegated to the former under section 101 of the Local Self-Government Act. As regards pounds, I am to observe that in view of section 61 of the Local Self-Government Act, and the definition of "local authority" in the Cattle Trespass Act the delegation of the functions transferred to the district board under section 31 of the Cattle Trespass Act is *intra vires* of the Local Self-Government Act. I am, however, to observe that if a local board, to which a pound had been transferred by a district board, is found to have failed to discharge the responsibilities imposed upon it, the district board is quite competent to take over the pound which has been mismanaged. Similarly, the district board can take over ferries which under the law could not, in any case, be transferred to a local board.

*Memo Nos. 6600-6604 L.S.-G., of the 20th November 1935.*

Copy forwarded to all Commissioners of Divisions (except Rajshahi) for information.

### **Scales of fines leviable on impounded cattle in different districts of Bengal.**

*Ben., Mun., Cir. Nos. 4994-4998 M., of 4-9-1937, to Commrs.*

I am directed to invite your attention to this department endorsement Nos. 716-20 M., dated the 2nd March 1928, forwarding copy [copies] of notification(s) No. 714 M. [and No. 715 M.] of the same date, prescribing scales of fines leviable on impounded cattle and to say that the scales prescribed therein are still in force.

It has, however, been brought to the notice of Government that some local bodies have been levying fines on impounded cattle at the rates printed on the back of Bengal Form No. 210 B., though the latter is exclusively intended for use by some pounds in the district of the 24-Parganas only under the control of the Magistrate of that district.

I am accordingly to request you to be so good as to impress upon the local bodies in your division that such practice, wherever it exists, should be discontinued at once and the scales prescribed in Government notification, dated the 2nd March 1928, should invariably be adopted.

[ ] For Commissioner, Burdwan Division only.

### **Presses.**

#### **District Board Presses allowed to undertake job work.**

*Ben., Mun. (L.S.-G.), No. 1584 of 7-7-1892, to Commr., Patna.*

The Bengal Government ruled that a District Board might allow its printing press to undertake job work and credit the proceeds therefrom to the district fund.

### **Prosecutions.**

#### **Cost of prosecution of Municipal servants to be borne by Municipality.**

*Ben., Mun., Cir. No. 32 M. of 2-8-1894, to Commrs.*

In connection with a recent case of embezzlement in a municipality, the question whether the cost of prosecuting a municipal servant for defalcations should be borne by the municipality or the Government has been reconsidered. The Lieutenant-Governor considers that the enforcement of honesty and probity on the part of municipal servants is an important step in carrying out the purposes of the Bengal Municipal Act, as laid down in section 69, and that the Government cannot, therefore, be equitably called upon to meet the cost of such prosecutions. The point was referred to the Hon'ble the Advocate-General, and he holds that such expenditure may, under the law, be incurred out of municipal funds. This opinion is, therefore, circulated for communication to all District Officers and Chairmen of municipalities in your Division. Expenditure on prosecutions of their servants must, in

future, be met by Municipal Commissioners. The Government order contained in circular No. 10T.—M., dated the 30th June 1884, are cancelled.

### **Prosecution under the Bengal Food Adulteration Act.**

*Ben., Mun., Cir. Nos. 4405-4409M. of 2-12-1930, to Commrs.*

I am directed to say that attention of Government has been drawn to the action of certain municipal authorities allowing prosecutions under the Food Adulteration Act to be withdrawn in return for payment made to the Municipal Fund or donations to local charities or institutions. I am to point out that the Act does not contemplate such procedure and that in the opinion of Government this course, which is inherently open to abuse and impairs the efficacy of the Food Adulteration Act in ensuring the purity of foodstuffs, should in no circumstances be adopted. I am to add that the Examiner of Local Accounts has been asked to draw the attention of Government to any instances of such receipts which may be noticed in audit.

I am further to say that the authorities of a certain municipality have been found to have submitted for analysis on behalf of the municipality specimens of foodstuffs tendered by firms for the purpose, payment being made to Government for the analysis at the concession rate prescribed for samples submitted by municipal authorities. I am to point out that this course causes loss to Government by extending the concession rate to samples on which the full fee for analysis should have been paid, and to say that samples of which the analysis is required by firms or private persons should be submitted direct by them for analysis to the Public Health authority.

### **Process Servers.**

#### **Help to process-servers by chaukidars and dafadars.**

*Ben., L.S.-G., Cir. Nos. 5059-5063L.S.-G., of 3-11-1934, to Commrs.*

I am directed to say that Government have approved a proposal of the Calcutta High Court for making necessary provision for taking the help of chaukidars or dafadars of union boards, whenever available in the service, by process-servers, of processes of subordinate civil courts. The intention is that the chaukidars or dafadars will not be made to serve the processes themselves, but if they are near at hand, they will be required to witness the actual service of the processes and then to sign the prescribed form of verification of service as a token of their having done so. A copy of the draft rule and form of verification which will be incorporated in the revised edition of the Court's General Rules and Circular Orders, Civil, is enclosed herewith.

I am to request that you will be so good as to ask the District Officers in your division to issue necessary instructions to the Presidents of the union boards so that every reasonable help may be afforded by the union board staff to the process-servers of civil courts.

*Drafterule.*

“Chaukidars and dafadars have been directed by the authorities to give all the information at their disposal and to render any help of



which they are capable, to all process-serving peons of civil courts in the matter of execution of processes generally, and particularly of the identification of persons to be served with them. Whenever a dafadar or a chaukidar is present at the service or execution of a process, the serving officer shall, after writing his report at the place of service, obtain from him a verification of service in the form\* printed upon the back of the process."

\*Form.

*Verification of service by a chaukidar or dafadar.*

"Service upon \_\_\_\_\_, son of \_\_\_\_\_ of \_\_\_\_\_, who is personally known to me, has been made in my presence by \_\_\_\_\_, process-server, in the manner described in his report. \_\_\_\_\_"

(Sd.)

Son of \_\_\_\_\_

Residence \_\_\_\_\_

### **Help by chaukidars and dafadars to process-servers of civil courts.**

*Ben., Mun., Cir. Nos. 4616-4620 L.S.-G., of 4-8-1937, to Comms.*

I am directed to invite your attention to this department circular Nos. 5059-5063 L.S.-G., dated the 3rd November 1934, and to rules 36 (dd) and 38 (l) of the rules published with Government notification No. 2197 P.J., dated the 21st May 1920, as subsequently amended by notification No. 2215 P.L., dated the 19th May 1936. It was urged therein that all possible help should be rendered by dafadars and chaukidars of union boards in this province to the process-servers of civil courts in serving processes within the jurisdiction of the union boards. It has since been brought to the notice of Government that requisite help is not being rendered in this direction by chaukidars and dafadars of various union boards [specially those of Balurghat in the district of Dinajpur]. I am, therefore, to request that you will be so good as to impress upon all union boards in your division the importance which Government attach to strict compliance with the instructions communicated to you with the circular cited above.

- 2. Printed copies of a Bengali translation of this circular will follow.

*Memo. No. 4621 L.S.-G. of the 4th August 1937.*

Copy forwarded to the Home (Police) Department of this Government for information, in continuation of this department memorandum No. 5260 L.S.-G., dated the 9th September 1935.

*Memo. No. 4622 L.S.-G. of the 4th August 1937.*

Copy forwarded to the Judicial Department of this Government for information, with reference to letter No. 4282 G., dated the 9th April 1937, from the Registrar of the Calcutta High Court to their address.

## Public Works Cess.

### Localization of Public Works cess.

*Ben., Genl. (Mun.), Nos. 980-85 T.M. of 3-11-1913, to A.-G.B., and Commsr.*

I am directed to refer to your letter No. T.—M. 653, dated the 26th September 1913, in which you report that in accordance with the instructions issued by you in August last, the public works cess has been surrendered to the District Boards in that month after deduction of the equilibrium grants and the cost of establishment and contingencies for the collection, valuation, or revaluation of the joint cesses. You request that this transfer may be approved by Government, and that the necessary orders laying down the conditions of the utilization of the grants may be issued.

2. In reply, I am to say that the Governor in Council has decided that for the year 1913-14 the public works cess should be given to the District Boards unconditionally. The question whether conditions will be imposed in future years or not is under consideration, and orders on the subject will be issued hereafter.

3. As the District Road Committee of Darjeeling is analogous to the District Boards in other districts, the public works cess relating to that district should be placed to the credit of the District Road Committee. In view, however, of the fact that the functions of the District Road Committee are confined to roads and other means of communication, and that the Darjeeling Improvement Fund is the source from which funds are provided for sanitary purposes, including the improvement of water-supply of drinking water, the Commissioner of the Rajshahi Division has been authorised to allot, in consultation with the District Road Committee and the Deputy Commissioner of Darjeeling, a portion of the public works cess to the Darjeeling Improvement Fund.

### Utilisation of the Public Works cess.

*Ben., Mun. (L.S.-G.), Nos. 2319-23 L.S.-G. of 25-9-1915.*

I am directed to refer to Government order No. 980 T.M., dated the 3rd November 1913, addressed to the Accountant-General, Bengal, a copy of which was forwarded to you with memorandum Nos. 981-85 T.M., dated the 3rd November 1913. It was intimated in this letter that the

public works cess for the year 1913-14 should be given to District Boards unconditionally, but that the question whether conditions would be imposed in future years or not was under the consideration of Government. Subsequently in Mr. Samman's letter Nos. 388-92M., dated the 7th February 1914, to your address, it was stated that His Excellency in Council desired to impress upon the District Boards the importance of setting apart a substantial sum out of the income enhanced by the surrender of the public works cess for the sanitation of villages and small towns for the improvement of water-supply and for anti-malarial operations.

2. It has been the consistent policy of Government to reserve to itself the powers of earmarking a portion of the public works cess for the improvement of the water-supply and similar objects. Accordingly in the Bill which was drafted to amend the Bengal Cess Act in order to give legal effect to the localization of the public works cess, Government reserved to itself the power of making rules to prescribe the objects on which this cess should be spent and the manner and proportion in which this expenditure should be distributed. The amendment of the Cess Act has, however, been held in abeyance pending the consideration of the recommendations of the District Administration Committee. In the meantime the Governor in Council desires to draw the attention of District Boards to the recommendation of that Committee for the utilization of the public works cess in financing unions under the Local Self-Government Act, and to warn them against any increase in establishment or other recurring expenditure which may absorb a large part of the additional income.

3. With regard to the expenditure of the current year in view of the distress in rural areas caused by heavy floods and the decline in the price of jute, the Governor in Council desires to impress upon all District Boards the desirability of spending large sums of money in the excavation of tanks in rural areas. The comparative cheapness of labour should make it possible for a much-needed improvement in this respect to be effected at a minimum of cost, while under systematic control, such works should go far to relieve local distress by affording employment for the labouring classes in want. With this object attention should be paid to the employment, as far as possible, of local rather than imported labour. Whenever the condition of the locality requires, the rule insisting on the contribution of a third of the cost of works on water-supply should be relaxed. In the opinion of His Excellency, this enterprise will afford suitable opportunity to District Boards for the proper utilization of their surplus balances and the additional resources placed at their disposal.

4. I am accordingly to request that the attention of the District Boards in your Division may be drawn to this important matter at an early date.

*India, Edn., No. 6 of 28-2-1916.*

I am directed to invite attention to the remarks made in this Department's circular Nos. 288-301, dated the 1st March 1913, regarding rural water-supplies and in particular to the wishes expressed by the Government of India regarding the employment of the additional income

received by District Boards, owing to the transfer to them of the entire net proceeds of the land cess. I am in this connection to state that a resolution was passed on the 22nd February in the Legislative Council of the Government of India to the following effect:—

This Council recommends to the Governor-General in Council that the attention of the Local Governments concerned may be invited to the orders issued by the Government of India on the 1st March 1913 regarding the transfer of certain local and public works cesses to District Boards, in which the Government of India expressed a wish that a substantial part of the income thus provided should be set apart for the improvement of rural water-supply, for anti-malarial measures, for the protection of grain stores and markets in plague-infected localities and generally for the sanitation of villages and small towns.

2. In accordance with the above resolution, I am desired to request that the sums spent by District Boards on the object above specified since 1st April 1913 may be examined in the light of the orders issued in the circular of the 1st March 1913, and that such steps as may be necessary be taken to ensure that the spirit of those orders should be observed.

*Ben., Mun., Cir. No. 13L.S.-G. of 12-3-1917, to Commrs.*

I am directed to refer to the instructions contained in Mr. Samman's letter Nos. 388-92M., dated the 7th February 1914, and in Mr. De's letter Nos. 2319-23L.S.-G., dated the 25th September 1915, regarding the utilization of the public works cess. In the former letter District Boards were informed of the desirability of devoting a substantial portion out of the public works cess for the sanitation of villages and small towns, the improvement of the water-supply and anti-malarial operations. In the latter they were advised to utilise large sums for the excavation of tanks in rural areas.

2. The manner in which the District Boards have exercised their discretion in spending the public works cess on the provision or improvement of water-supply was reviewed in paragraph 15 of the resolution on the working of District Boards during 1915-16. It was observed that during the year 23·3 per cent. of the cess was spent on water-supply by all the Boards taken together, but that in some districts the proportion which the expenditure on water-supply bore to the public works cess receipts was under 11 per cent., while in one district it was as low as 6 per cent. It was also pointed out in paragraph 23 of the resolution that the amount actually spent was practically the same as in the preceding year and that in some districts there was a slackening off of the efforts for the improvement of water-supply.

3. It will be seen from the table given in paragraph 15 of the resolution above referred to, which shows the average expenditure on certain heads during the three years preceding and immediately following the surrender of the public works cess, that the average annual expenditure on civil works during the latter triennium exceeded that

for the triennium ending in 1912-13 by approximately 21½ lakhs. The amounts available for expenditure on communications consist of the road cess receipts and of the augmentation grant, in the utilisation of which it was laid down in Government order No. 26L.S.-G., dated the 3rd April 1905, that preference should be given to expenditure on roads and bridges in all cases in which additional outlay on such works could be incurred with advantage. The table below shows that during the last two years the expenditure on communication has largely exceeded the receipts from both these sources, though the augmentation grant is intended for educational and medical purposes and for veterinary relief, as well as for communications and that the excess has increased to a remarkable extent since the transfer of the public works cess:—

Year.	Road cess, including interest on arrears.	Augmentation grant.	Total.	Expenditure on communications.	Excess or deficiency.
	Rs.	Rs.	Rs.	Rs.	Rs.
1913-14	29,18,688	5,79,874	34,98,512	34,63,466	- 35,046
1914-15	30,11,639	6,97,032	37,08,671	43,96,011	+ 6,87,340
1915-16	31,37,152	5,91,688	37,28,840	47,01,051	+ 9,72,211

The excess can only have been met from the funds made available by this transfer, and it is apparent therefore that the public works cess receipts are being used not only for the objects specified by Government, but also to a disproportionately large extent for the construction of new roads and the improvement of old roads.

4. The Governor in Council deprecates the tendency to devote to communications large sums in excess of both the road cess receipts and the augmentation grant and desires to reiterate the desirability of utilizing the public works cess for the objects mentioned in Mr. Samman's letter above referred to and especially for the improvement of water-supply. I am accordingly to request that the attention of the District Boards may again be drawn to this important matter, and that their budget estimates may be carefully scrutinized to see that adequate provision has been made for expenditure on water-supply.

*Ben., Mun., Cir. No. 15L.S.-G. of 17-3-1917, to Commsr.*

In continuation of the correspondence ending with circular No. 13L.S.-G., dated the 12th March 1917, on the subject of expenditure on water-supply by District Boards, I am directed to forward a copy of a question asked, and of the answer given to it, at the meeting of the Bengal Legislative Council, held on the 23rd January 1917.

2. In circular No. 12T.M., dated the 20th May 1904, Government made a promise that it would contribute a third of the cost of improving

the water-supply in rural areas, subject to a maximum of Rs. 5,000 for any one district and of Rs. 50,000 for the whole province provided that the District Boards contributed one-third of the cost and the public another third.\* The condition that the public should contribute one-third of the cost before a Government grant was made was withdrawn in Eastern Bengal by Government letter No. 4945M., dated the 20th July 1908, to the Secretary, Sanitary Board, Eastern Bengal and Assam, in which it was stated that the grant placed at the disposal of the Sanitary Board for the improvement of water-supply in rural areas should be allotted under such agreements as to private contributions as they might find practicable and suitable to local conditions. In West Bengal the condition was withdrawn in circular No. 16T.—L.S.-G., dated the 4th October 1911, in which Government agreed to contribute one-third of the expenditure incurred by District Boards in any one year on the improvement of the local water-supply, subject to a maximum of Rs. 3,000 in each case, irrespective of the amount contributed by the public. It was at the same time explained that the expenditure of the District Boards should supplement and not supersede local efforts. Subsequently the district funds were considerably augmented by the surrender of the public works cess, and it was accordingly announced in resolution No. 228L.S.-G., dated the 24th January 1914, that Government would in future give no special grants for the improvement of water-supply in rural areas, as the District Boards should have no difficulty in providing sufficient funds for the purpose.

3. I am to request that you will make it clear to the District Boards in your Division that there is no rule or order of Government requiring that the local public should contribute one-third of the cost of improving the water-supply. It is left to the discretion of the District Board to decide what contribution the public should make, but as stated in circular No. 16T.—L.S.-G., dated the 4th October 1911, the idea should not be allowed to gain ground that the need for local co-operation has disappeared.

\*4. A copy of circular No. 16T.—L.S.-G., dated the 4th October 1911, is enclosed†.

*Question asked and the answer given to it at the meeting of the Bengal Legislative Council, held on the 23rd January 1917.*

*Question.*—With reference to the remarks made by the Hon'ble Nawab Sir Syed Shams-ul-Huda in the course of the debate on the rural water-supply resolution, moved in the Council by the Hon'ble Mr. P. C. Mitter in September last, are the Government considering the advisability of withdrawing the circular issued under orders of Sir Andrew Fraser, which insisted upon a local contribution of one-third of the total expenses of excavating tanks, etc.?

*Answer.*—The circular of 1904 to which the Hon'ble Member refers laid down *inter alia* that one-third of the cost of any project for improving the supply of drinking-water in rural areas should be met from

\*To East Bengal Commissioners only.

†Not printed.

public subscriptions before a Government grant was made. This condition was withdrawn by the Government of Eastern Bengal and Assam in 1908, and by the Government of Bengal in 1911. The orders contained in the circular of 1904 applied only when grants were made by Government to District Boards for the improvement of the rural water-supply and not when District Boards spent money for this purpose without receiving a Government subvention. As there appears to be considerable misapprehension on the subject, a circular will shortly issue explaining the position.

## **Railway Schemes.**

**Government advice to be taken by District Boards before any concessions are given for Railway schemes.**

*Ben. Mun. (L.S.-G.), Cir. No. 27 of 26-8-1904, to Comms.*

It has recently come to the notice of the Lieutenant-Governor that a District Board gave a guarantee to a syndicate for the construction of a railway on the 2 feet 6 inches gauge without reference to Government, although the sanction of Government to such guarantee is required by section 82 of the Local Self-Government Act. Relying on the guarantee, the syndicate incurred an expenditure of Rs. 12,000 on the survey of the line, and this sum was entirely thrown away, as it was found that the line, if constructed, would have to be on the metre gauge in order to harmonize with the general system of the province.

I am accordingly to request that you will impress on all the District Boards in your Division the necessity of taking the advice of Government in the Railway Department before concessions are given for railway schemes. Unless this is done, it is inevitable that both time and money will frequently be wasted on impracticable projects.

## **Records.**

**Preservation of records in offices of District Boards and District Engineers.**

*Ben., L.S.-G., Cir. Nos. 5230-34 L.S.-G. of 10-11-1922, to Comms.*

I am directed to refer to this department circular Nos. 2902-06 L.S.-G., dated the 14th June 1921, forwarding a provisional list of records of the offices of District Boards and District Engineers for opinion as to the period of their preservation. The list has been revised in the light of the suggestions received and the period for which they should, in the opinion of Government, be preserved, is shown against each in the second column. In enclosing copies thereof, I am to request that they may be circulated to the District and Local Boards in your Division for their guidance. Copies have also been sent to the Inspector of local works (through the Public Works Department).

*List of records of the offices of District Boards and District Engineers  
showing the period of preservation of each.*

Serial No.	Description of records.	Period of preservation.
1.	Budget estimate (D. B. Form 1) ..	3 years.
2.	Details of budget estimate (D. B. Form 2)	3 ..
3.	Reappropriation statement (D. B. Form 3)	3 ..
4.	Demand and collection register of rents (D. B. Form 4).	6 ..
5.	Quarterly return to be submitted by Local Boards to the District Board showing the state of pound and ferry-rent collection (D. B. Form 5).	3 ..
6.	Receipt tickets for tolls, ferries, etc. (D. B. Form 6).	1 year.
7.	Stock book of receipt tickets, miscellaneous bills, receipts, etc., (D. B. Form 7).	3 years.
8.	Chalan (D. B. Form 8) ..	6 ..
9.	Miscellaneous demand register (D. B. Form 9) ..	6 ..
10.	Counterfoils of miscellaneous bills (D. B. Form 10)	6 ..
11.	Counterfoils of miscellaneous receipts (D. B. Form 11 and D. E. Form 1).	6 ..
12.	Visitors' book (D. B. Form 12) ..	6 ..
13.	Register of fruit-bearing trees (D. B. Form 13) ..	Until rewritten.
14.	Abstract register of attendance of Board's schools (D. B. Form 14).	3 years.
15.	Register of subscriptions (D. B. Form 15) ..	6 years after a new register is opened.
16.	Establishment pay bill (D. B. Form 16)	35 years.
17.	Absentee statement (D. B. Form 17)	35 ..
18.	Periodical increment certificate (D. B. Form 18) ..	
19.	Service book (D. B. Form 19) ..	While the officer is in service.
20.	History of service of the District Engineer (D. B. Form 20).	Ditto.
21.	Detailed statement of permanent establishment (D. B. Form 21).	35 years.
22.	Detailed statement of new names (D. B. Form 22)	3 ..



Serial No.	Description of records.	Period of preservation.
	Application for pension or gratuity (D. B. Form 23).	Life time of pensioner.
24.	Permanent pay order for pension (D. B. Form 24)	Ditto.
25.	Register of permanent pay order issued (D. B. Form 25).	25 years.
26.	Form of security bonds (D. B. Form 26)	.. 3 years after retirement.
27.	Form of security bonds in landed property (D. B. Form 27).	3 years after retirement.
28.	Contingent bill form (D. B. Form 28)	.. 3 years.
29.	Permanent advance account (D. B. Form 29)	6 ..
30.	Register of stamps (D. B. Form 30)	.. 3 ..
31.	Register of stationery (D. B. Form 31)	.. 3 ..
32.	Travelling allowance bills for Chairman, Vice-Chairman and members (D. B. Form 32).	3 ..
33.	Travelling allowance bills for non-gazetted officers and employees of the Board (D. B. Form 33).	3 ..
34.	<i>Pro forma</i> accounts of dispensaries (D. B. Form 34)	3 ..
35.	Subsidiary balance account of dispensaries (D. B. Form 35).	3 ..
36.	Advance ledger (D. B. Form 36)	.. 6 ..
37.	Deposit ledger (D. B. Form 37)	.. 6 ..
38.	Quarterly list of outstanding advances (D. B. Form 38).	6 ..
39.	Quarterly list of outstanding deposits (D. B. Form 39).	6 ..
40.	Register of investments and security deposits other than cash (D. B. Form 40).	Permanently.
41.	Loan register (D. B. Form 41)	.. Ditto.
42.	Appropriation register of loans, special grants and contributions (D. B. Form 42).	Ditto.
43.	Cash-book (D. B. Form 43)	.. Ditto.
44.	Pass-book (D. B. Form 44)	.. 6 years.
45.	Balance certificate showing abstract of district fund account in the treasury (D. B. Form 45).	6 ..
46.	Register of undelivered money orders (D. B. Form 46).	6 ..
47.	Register of work bill (D. B. Form 47)	.. 3 ..
48.	Counterfoils of cheque (D. B. Form 48)	.. 6 ..
49.	Abstract register of receipts (D. B. Form 49)	.. 6 ..
50.	Abstract register of expenditure (D. B. Form 50)	.. 6 ..
51.	Adjustment register (D. B. Form 51)	.. 6 ..
52.	Register of educational bills paid, net (Form D. B. 52).	6 ..

Serial No.	Description of records.	Period of preservation.
53.	Monthly and quarterly account of receipts (D. B. Form 53).	6 years.
54.	Monthly and quarterly account of expenditure (D. B. Form 54).	6 ..
55.	Annual account (D. B. Form 55) .. ..	6 ..
56.	Establishment check register and register of fixed recurring charges (D. B. Form 56).	6 ..
57.	Register of lands (D. B. Form 57) .. ..	Permanently.
58.	Counterfoils of forms for indent (D. B. Form 58 and D. E. Form 12).	6 years.
59.	Monthly audit certificate (D. B. Form 59) ..	6 ..
60.	Register of furniture and properties (D. B. Form 60).	Permanently.
61.	Register of miscellaneous receipts (D. E. Form 2).	6 years.
62.	Imprest cash book (D. E. Form 3)	6 ..
63.	Measurement book (D. E. Form 4)	10 years after accounts are finally closed.
64.	Stock register of measurement books (D. E. Form 5).	12 years.
65.	Schedule of tenders (D. E. Form 5) ..	
66.	Contract certificate (D. E. Form 7) ..	
67.	Petty contract bill (D. E. Form 8) ..	
68.	Contractor's ledger (D. E. Form 9) ..	
69.	Register of bills (D. E. Form 10) ..	
70.	Nominal Muster-roll (D. E. Form 11)	
71.	Bill for materials (D. E. Form 13) ..	
72.	Register of purchases (D. E. Form 14)	
73.	Materials at site accounts (D. E. Form 15)	
74.	Report of survey of unserviceable stores (D. E. Form 16).	3
75.	Register of tools and plants (D. E. Form 17) ..	3
76.	Monthly account of road metals received and issued (D. E. Form 18).	3
77.	Works abstract (D. E. Form 19) .. ..	3 ..
78.	Works abstract for petty works (D. E. Form 19A)	3 ..
79.	Register of works (D. E. Form 20) .. ..	Permanently.
80.	Register of petty works (D. E. Form 20A) ..	Ditto.
81.	Write-back orders (D. E. Form 21) .. ..	3 years.
82.	Register of workshop stock and stores (D. E. Form 22).	6
83.	Work register used in workshop (D. E. Form 23)	3
84.	Schedule of works abstract (D. E. Form 24) ..	3

Serial No.	Description of records.	Period of preservation.
85.	Sanctioned estimates and plans of important original works.	20 years.
86.	Sanctioned estimates and plans of unimportant original works.	5 years after completion of work.
87.	Record plans .. ..	Permanently or till replaced by up-to-date plans.
88.	Sanctioned estimates of repair works ..	3 years.
89.	Petition for works not sanctioned ..	3 ..
90.	Papers regarding works done out of khas mahal grant.	12 ..
91.	Agreements of regular and piece works and registers and of such agreements	5 years after completion of work.
92.	Progress reports of works and repairs ..	1 year after the date of submission of completion report
93.	Completion reports of original works ..	5 years.
94.	Completion reports of repair works ..	2 ..
95.	Register of estimates for original works ..	Till fresh registers are prepared for any important estimate retained for record purposes.
96.	Register of estimates for repair works ..	Ditto.
97.	Returns of tools and plants ..	3 years.
98.	Rate table ..	Permanently.
99.	Roads metal rate book ..	3 years.
100.	Schedule of public works expenditure or road list	Permanently.
101.	Accepted or unaccepted tenders ..	6 years.
102.	Sanctioned drawings of bridges, buildings or roads	Permanently.
103.	Journal of District Engineer ..	3 years.
104.	Note-book of the District Engineer and his subordinates.	3 years after completion of any important works referred to in note-books.
105.	Tour diaries of the District Engineer and his subordinates.	3 years.
106.	Weekly diaries of overseers ..	1 year.
107.	Stock registers of note-books ..	6 years.
108.	District Engineer's inspection note ..	1 year after completion of work.
109.	Inspection reports ..	6 years.
110.	Bungalow inspection book ..	3 ..
11.	Sanctions to contingent expenditure ..	3 ..

Serial No.	Description of records.	Period of preservation.
112.	Collector's estimate of the balance of the District Fund.	3 years.
113.	Receipts for permanent advance .. ..	6 ..
114.	Vouchers and sub-vouchers for payments from permanent advance.	3 ..
115.	Vouchers of recoupment of permanent advance	3 ..
116.	Voucher including education and other bills ..	6 ..
117.	Counterfoils of lower primary pass certificates ..	3 ..
118.	Result papers of rewards, etc. .. ..	6 ..
119.	Grant-in-aid school accounts .. ..	6 ..
120.	Forms in connection with schools maintained or aided by District Boards.	6 ..
121.	Diaries of Sub-Inspectors of Schools ..	3 ..
122.	Diaries of Inspecting Pandits .. ..	3 ..
123.	Annual school returns .. ..	3 ..
124.	Annual returns of Sub-Inspectors of Schools ..	3 ..
125.	Primary examination results .. ..	3 ..
126.	Books of interest including official publications, Government resolutions, etc.	Till considered out of date.
127.	Government Gazette .. ..	1 year.
128.	Professional reports of importance .. ..	Permanently.
129.	Circular and general instructions .. ..	Ditto.
130.	Annual Reports .. ..	Ditto.
131.	Statement and appendices of annual reports ..	Ditto.
132.	Office order book .. ..	Ditto.
133.	Register of orders given to printing press ..	1 year.
134.	Register of application for information and copies	3 years
135.	Register of saleable forms .. ..	3 ..
136.	Audit note by the Examiner of Local Accounts	12
137.	Peon Book .. ..	1 year.
138.	Application for appointment (unsuccessful), leave, etc.	1 ..
139.	Attendance register of office staff .. ..	1 ..
140.	Register of Government securities .. ..	Permanently.
141.	Important papers regarding contributions to Government for veterinary establishment.	20 years.
142.	Routine correspondence regarding contribution to Government for veterinary establishment.	3 ..
143.	Records of general sanctions to contributions from and to municipalities and other public bodies.	20 ..
144.	Routine correspondence regarding contributions from and to municipalities and other public bodies.	3 ..

Serial No.	Description of records.	Period of preservation.
145.	Papers regarding recurring grants from Government and other local bodies and private individuals.	20 years.
146.	Papers regarding special grants from Government and other local bodies and private individuals.	12
147.	Papers regarding annual payment of contributions to Pasteur Institute.	
148.	General sanction to grant of contributions to Pasteur Institute.	20
149.	Papers regarding credit orders for Local Boards on Treasury Officer.	
150.	Papers regarding acquisition of private ferries ..	Permanently.
151.	Pounds and ferry leases .. ..	3 years after expiry.
152.	Papers regarding settlement of pounds and ferries	6 years.
153.	Sale register of pounds and ferries .. ..	6 ..
154.	Deeds of gift of lands, etc. .. ..	Permanently.
155.	Kabuliyats for lands, etc., leased out ..	Ditto.
156.	Other deeds, documents, leases, etc., not mentioned in this list.	3 years after expiry of term.
157.	Register of deeds, documents, leases, etc ..	Permanently.
158.	Survey and settlement maps and records ..	Ditto.
159.	Register of letters received and issued ..	Ditto.
160.	Correspondance registers .. ..	In accordance with the rules in the Records Manual.
161.	Index register of correspondence	Permanently.
162.	Account letters .. ..	As long as the account.
163.	Important correspondence regarding improvement of arts and industry.	Permanently.
164.	Important correspondence regarding purchase, distribution, etc., of breeding bulls.	15 years.
165.	Papers relating to amendment of Acts, rules, by-laws, etc.	Permanently.
166.	Important papers regarding rural water-supply ..	Ditto.
167.	Register of rural water-supply .. ..	Ditto.
168.	Papers regarding land acquisitions .. ..	Ditto.
169.	Papers relating to civil suit .. ..	Ditto.
170.	Papers relating to compensation for damages ..	3 years.
171.	Papers regarding delegation of powers to prosecute under by-laws.	Permanently.
172.	Sanctions to prosecutions under by-laws .. ..	3 years.
173.	Papers relating to by-law complaints .. ..	3 ..
174.	Papers regarding transfer of property .. ..	Permanently.

Serial No.	Description of records.	Period of preservation.
175.	Trust funds accounts .. .. .	Permanently.
176.	Quarterly return of pensions and gratuities, grants, etc.	6 years.
177.	Provident fund ledger .. .. .	35 ..
178.	Abstract of balance in favour of each depositor to the provident fund.	35 ..
179.	Provident fund dead account .. .. .	35 ..
180.	Audit register of provident fund bills .. .. .	25 ..
181.	Provident fund declarations .. .. .	3 years after the account is closed.
182.	Papers regarding withdrawals from provident fund	3 years.
183.	Register of voters (Local Board election) .. .. .	Until rewritten.
184.	Other papers in connection with elections and appointments of Chairmen, Vice-Chairmen and members of the District and Local Boards.	Until after next general election.
185.	Notice book of meetings .. .. .	3 years.
186.	Register of attendance of members at meetings .. .. .	3 ..
187.	Proceedings books .. .. .	Permanently.
188.	Copies of proceedings of Local Boards forwarded to District Boards.	12 years.
189.	Proceedings of Finance Committees .. .. .	10 ..
190.	Proceedings of Education Committees .. .. .	10 ..
191.	Proceedings of Medical and Sanitation Committees.	10 ..
192.	Papers regarding establishment or abolition of dispensaries.	Permanently.
193.	Dispensary rules. .. .. .	20 years.
194.	Papers regarding formation of Dispensary Committees.	3 ..
195.	Cholera and smallpox register .. .. .	3 ..
196.	Papers regarding employment of temporary vaccinators.	3 ..
197.	Register of persons vaccinated .. .. .	3 ..
198.	Annual returns relating to vaccination .. .. .	3 ..
199.	Register of persons vaccinated (sections 20, 21, and 22, Act V of 1880).	6 ..
200.	Monthly return of cases in which notices to be vaccinated have issued but have not been obeyed.	
201.	Register of vaccination receipts .. .. .	
202.	Register of vaccination expenditure .. .. .	
203.	Notices to unprotected persons to be vaccinated (section 11, Act V of 1880).*	
204.	Notices to parents to have their children vaccinated (section 3, Act V of 1880).	

## Reports and Returns (District Boards).

### Instructions for the preparation of Annual Divisional Report on District

*Ben., Mun. (L.S.-G.), Res. No. 506, with Cir. No. 3T.—L.S.-G. of 16-6-1913, to Commrs.*

On the reconstitution of the Presidency of Bengal on the 1st April 1912, the question of assimilating the instructions for the preparation of the annual reports on the working of the District Boards in the Eastern and Western Divisions, as contained in the circulars referred to in the preamble, came under the consideration of Government, but the issue of orders was then deferred in order to avoid confusion in the submission of the divisional reports for 1911-12. An examination of the reports and the appendices attached thereto discloses the existence of some differences.

2. No material difference is noticed between the statements in Forms I(a), I(b), II and III of the Western Bengal and Forms I(a), I(c), II and III of the Eastern Bengal reports, respectively. The appendices, however, differ considerably, except those relating to pounds, union committees and dispensaries, which are respectively numbered A, D and E in the Western Bengal reports, and D, E and C in the Eastern Bengal reports. The Western Bengal Appendix B regarding education gives considerably more detailed information than the corresponding Eastern Bengal Appendix A, the latter dealing only with lower primary schools. Appendix C of the Western Bengal reports relating to district and village roads also differs in detail from the corresponding Eastern Bengal Appendix B. Certain appendices prescribed for the Western Bengal reports were discontinued by the late Government of Eastern Bengal and Assam. These are Appendix F (triennial), showing the occupation of members of District and Local Boards, and the statement showing the details of the sources and character of water-supply. Further, the reports themselves are written on different lines. The Eastern Bengal reports are drawn up in accordance with a skeleton form prescribed in Mr. Kershaw's circular order Nos. 3198-3202F., dated the 19th April 1906; while under circular No. 20L.S.-G., dated the 29th August 1901, the Western Bengal reports follow the method of treatment adopted in the Government resolution reviewing them. The dates prescribed for the submission of the reports were practically the same in Western and Eastern Bengal, being the 31st July in the former and 1st August in the latter province.

3. It is now considered expedient to prescribe a uniform procedure for the whole of the new Presidency for the preparation and submission of the District Board reports, and His Excellency the Governor in Council is accordingly pleased to issue the following instructions in modification of all previous orders on the subject. Effect should be given to these orders in the preparation of the reports for 1912-13.

4. Attention is invited to the orders contained in Government circular No. 21, dated the 18th November 1889, under which the reports follow the order and method of treatment adopted in Government resolution. As the preparation of the reports, according to a skeleton form, reduces the work to mere mechanical labour which tends to make

them incomplete and uninteresting, the orders of 1889, which were reiterated in Government circular No. 20 L.S.-G., dated the 29th August 1901, should be observed in preparing the reports in future. The subsidiary statements hitherto included in the letterpress of the Eastern Bengal reports under paragraph 4 of the Eastern Bengal and Assam Government circular orders of the 19th April 1906, referred to above, showing the number of Muhammadan members on each District and Local Board and on each union committee, should be excluded from it and embodied in a separate Provincial Appendix G which is now prescribed for this purpose. Mention should, however, be made in the report as to the extent to which each Board has maintained its thana maps and registers showing the sources of rural water-supply in the district. In this connection a reference is invited to Government order Nos. 166-67 L.S.-G., dated the 20th January 1913 (for Western Bengal Commissioners), and to the orders contained in the resolution of the Government of Eastern Bengal and Assam, No. 3490M., dated the 12th June 1911 (for Eastern Bengal Commissioners).

5. The statistical returns I(a) and I(b), showing the constitution of District and Local Boards, and II and III, showing the income and expenditure of District Boards, should be submitted in the forms in which they have been appended to the Government resolution on the working of District Boards during 1911-12. These tables, being Imperial, no additional columns can be inserted in them without the specific sanction of the Government of India, except under the heads where the authority to do so has already been given by that Government.

6. In addition to these Imperial Forms the following appendices in the form annexed, and no others, should be attached to the annual divisional reports:—

*Appendix A.*—Statement showing the number of pounds under District Boards and their income and expenditure.

*Appendix B.*—Statement showing the inspecting agency employed by District Boards, the number of schools of each class maintained or aided by them, and the number of pupils attending the schools.

*Appendix C.*—Statement showing details of expenditure on village lower primary schools by District Boards.

*Appendix D.*—Statement showing for each District Board the allotments and expenditure on roads, the mileage of roads, the lapses and the percentage of the lapses to the total allotments.

*Appendix E.*—Statement showing the working of union committees.

*Appendix F.*—Statement showing the number of dispensaries wholly maintained or aided by District Boards and the expenditure incurred on them.

*Appendix G.*—Statement showing the number of Muhammadan members on each District and Local Board and on each union committee.

The present Western Bengal Appendix C (Roads), Appendix F (Occupation of members of District and Local Boards), and the statement showing the sources of water-supply should be omitted altogether in future.



7. The divisional reports should be submitted to Government by the 31st July. In order, however, to enable Government to compile statistics for the provincial resolution, an advance copy of the prescribed returns to be appended to the reports should be submitted to the Municipal Department not later than the 15th July, *i.e.*, about a fortnight earlier than the date on which the report is due. If the appendices are not ready by the 15th July, Forms I(a), I(b), II and III should in any case be submitted by that date, the provincial appendices being forwarded thereafter as soon as possible.

*Ben., Mun. (L.S.-G.), Cir. No. 19 L.S.-G. of 25-6-1915.*

I am directed to refer to circular No. 3T.—L.S.-G., dated the 16th June 1913, forwarding a copy of Government resolution No. 506 T.—L.S.-G., of the same date containing instructions for the preparation of annual reports on the working of District Boards in Bengal, and to communicate the following further instructions which should be followed in the compilation of the returns appended to those reports:—

(a) The figures in columns 4 and 5 of Appendix A (showing the income and expenditure of pounds under District Boards) should ordinarily agree with those in column 18 (total income under Police) of Form II and column 23 (total cattle-pound charges) of Form III, respectively. Any deviation should be explained in a footnote.

(b) In Appendix E (showing the working of union committees) the expenditure should be shown under expenditure heads, such as roads, pounds, education, dispensaries, sanitation and conservancy and water-supply. Columns with these headings and a column headed "Other expenditure" should therefore be substituted for the existing columns 16 to 19.

(c) The existing instructions for the calculation of "ordinary income" for the purpose of column 7 of Appendix F having been found inappropriate in altered circumstances, it has been decided that column 7 should be replaced by a new column with the head "Average expenditure from district fund per dispensary." The figure for this column should be calculated by dividing the totals of columns 4 and 6 by the number of dispensaries maintained and aided (columns 3 and 5).

(d) The figure to be shown in column 16\* of Forms I(a) and I(b) (statements showing the constitution of District and Local Boards) is the percentage of the average number of officials present at each meeting on the total number of officials. To obtain the average number of officials present at each meeting it is necessary to divide the total number of attendances of official members during the year by the number of meetings held.

Thus if the number of meetings held is 20 (column 14), the number of official members 4 (column 10), and the total number of attendances put in by official members 60, then the average number of officials present at each meeting will be  $60 \div 20$ , *i.e.*, 3, and the average percentage of officials present at each meeting will be  $\frac{3}{4} \times 100$ , *i.e.*, 75.

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\* Average percentage of officials present at each meeting.

The percentages for column 17 (Average percentage of non-officials present at each meeting) and column 18 (Average percentage of all members present at each meeting) should also be calculated in the same way.

2. I am to request that the above instructions may be given effect to in the returns for the year 1914-15.

3. A copy of this letter has been forwarded to all Chairmen of District Boards direct, with the request that revised figures may be communicated to you as early as possible.

*Ben., Mun. (L.S.-G.), Cir. No. 15 L.S.-G. of 23-6-1916.*

In continuation of Government circular No. 19 L.S.-G., dated the 25th June 1915, containing instructions for the compilation of returns appended to annual reports on the working of District Boards, I am directed to communicate the following further instructions which should be followed in the preparation of those returns.

2. An examination of the figures given in columns 39 and 40 of Form III and columns 4 and 6 of Appendix F (statement regarding dispensaries maintained or aided by District Boards) shows that the method of filling up these columns varies in different districts. In some districts the total of columns 4 and 6 of Appendix F agrees with the figures given in column 40 of Form III, while in others it does not, because the expenditure on medical establishment employed in dispensaries, as shown in Appendix F, is divided between columns 39 and 40 of Form III. With a view to securing a uniform method of filling up these columns, I am to say that the total of columns 4 and 6 of Appendix F should agree with the figures shown in column 40 of Form III. Column 40 should show all charges on account of dispensaries, including the cost of the establishment employed in them, while column 39 should exhibit the cost of medical establishment not attached to any dispensary, such as itinerant doctors, lady doctors, midwives, etc.

3. I am to request that the above instructions may be given effect to in the returns for the year 1915-16. A copy of this letter has been forwarded to all Chairmen of District Boards direct, with the request that revised figures may be communicated to you as early as possible.

*Ben., Mun. (L.S.-G.), No. 16 L.S.-G. of 29-3-1917.*

I am directed to forward copy of a letter No. 19, dated the 4th December 1916, and of its annexure, from the Government of India, prescribing a new statement showing the number and constitution of village authorities to be appended to the reports on the working of District and Local Boards, and to say that the statement should be adopted as form No. IV in the reports on the working of District and Local Boards commencing with the year 1916-17.

2. The statement is to be compiled, district by district, the name of the district being shown in column 1. As there are at present no village authorities in Bengal, except union committees, the latter should be shown in column 2. I am to request that the District Boards in your Division may be instructed accordingly. • •

*Letter No. 19, dated the 4th December 1916, from the Secretary to the Government of India, Education Department, to the Secretary to the Government of Bengal, Municipal Department.*

I am directed to say that in the opinion of the Government of India, information regarding the number and constitution of union committees, village panchayats or other village committees, established in the several provinces under the Local Self-Government Acts, will be useful if supplied in a statement appended to the reports on the working of District and Local Boards. They have accordingly decided that the information should in future be given in the accompanying form. I am to request that, with the permission of the Governor in Council, the form may be adopted for reports commencing, if possible, with the year 1916-17.

**Statement showing the constitution of village authorities for Local Self-Government during the year 19 -19 .**

Serial No.	Class of village authority (i.e. whether union committee, village panchayat, etc.).	Act under which constituted.	Number of village authorities.	population affected.	Particular about Chairman.				Number of members.				Remarks.
					Elected non-official.	Elected official.	Nominated non-official.	Nominated official.	Ex-officio.	Nominated.	Elected.	Total.	
1	2	3	4	5	6	7	8	9	10	11	12	13	14

*Ben., L.S.-G., Nos. 4395-99 L.S.-G. of 22-11-1923, to Commsr.*

I am directed to invite a reference to this department circular Nos. 5249-52M., dated the 9th November 1922, and to request that the report showing the work done by the Circle Officers during the period from January to September 1923, in facilitating the formation of Union Boards in your Division may be submitted at an early date.

I am to add that instead of submitting a separate report in October each year, as laid down in the circular quoted above, it would be sufficient if a paragraph were inserted in your report on the working of District Boards reviewing the propaganda work done by the Circle Officers in favour of the establishment of Union Boards under the Village Self-Government Act.

**Recommendation of names of Chairman, Vice-Chairman and members of local bodies for honourable mention in Government resolution on the working of local bodies.**

*Ben., L.S.G., Cir. Nos. 4530-4534 L.S.G. of 29-7-1935, to Commrs.*

I am directed to state that in the annual divisional reports on the working of the district and local boards of Bengal, mention is made of names of chairmen, vice-chairmen and members of these boards on account of good work done by them. In reviewing these reports it has been noticed by Government that while in respect of some districts and divisions the list of names is unusually large, in others few or no names are mentioned. The Government of Bengal (Ministry of Local Self-Government) consider that there should be some proportion and uniformity as regards the recommendations for special mention in a Government resolution on the working of these boards. With a view to attain this end the following procedure is suggested:—

(1) Chairmen of district boards while forwarding names of members for honourable mention should neither be unduly liberal nor unusually reserved. They should exercise proper discrimination and should send up names of vice-chairmen and members who have shown outstanding interest in the working of the boards.

(2) In bringing these names to the notice of the Commissioner, the District Magistrate should use his own knowledge of the working of the local body concerned in making further scrutiny especially if the number recommended for mention appears to him to be excessive. He should consider the merits of the chairman of the district board for such mention and include his name at his discretion.

(3) The Commissioner should, in sending up names to Government, endeavour to minimise disproportion in the number of names mentioned for the different districts in the division.

*Ben., L.S.G., Cir. Nos. 5829-5833 L.S.-G., of 20-7-1936, to Commrs.*

I am directed to invite a reference to this department circular Nos. 4530-4534 L.S.-G., dated the 29th July 1935, laying down the procedure to be followed with a view to securing some measure of uniformity in principle in the matter of recommendation of names for special mention in Government resolutions on the working of district and local boards of the province. In reviewing the divisional reports on the working of these boards during the year 1933-34, Government have again noticed a certain amount of disproportion and lack of uniformity of principle, in some of these reports, in regard to the selection of names for special mention. But at the same time they realise that the above circular did not reach the local officers and the Chairmen of district boards before their reports for the year 1933-34 were submitted and that the instructions contained in that circular could not, therefore, be complied with so far as these reports were concerned.

2. I am, however, to request that the attention of the Chairmen of the district boards and the District Magistrates may be specially invited to the instructions contained in the Government circular under reference and that proper care may be taken so that excessive disproportion in the matter of nominations from the several divisions may be avoided as far as possible.

## **Delay in the submission of divisional reports and statistics on the working of local bodies.**

*Ben., L.S.-G., Cir. Nos. 1289-1293 L.S.-G. of 9-3-1937, to Comms.*

I am directed to invite your attention to the delay that has been taking place in recent years in submitting the divisional reports and statistics of the working of the municipalities, district and local bodies and union boards for the preparation of the annual Government resolutions on the administration of these bodies.

2. As you are aware, under the existing orders of Government, these divisional reports and statistics are required to be submitted to the Local Government by the following dates:—

### **Municipalities—**

Divisional reports—15th August

Statistics—31st July.

### **District, local and union boards—**

Divisional reports—31st July.

Statistics—15th July

A statement is enclosed showing the dates of receipt of the various reports from each division during the last three years. It will be observed that almost all the reports, with a few exceptions, were received by Government long after the prescribed dates and this has to a considerable extent been responsible for the delays that have lately occurred in publishing the Government resolutions.

3. Government are particularly anxious that there should not be any such delays in future but this is hardly possible unless the divisional reports and statistics are received in due time. I am, therefore, to request you to be so good as to impress on the local bodies and the local officers in your division the necessity of submitting their reports, particularly those on the working of the municipalities and the district and local boards, within the prescribed time and to see that the divisional reports and statistics are invariably submitted to Government by the prescribed dates.

4. As regards the reports on the working of the union boards, Government realise that the delay is largely due to the difficulty experienced in collecting information within the prescribed time from a large number of rural bodies of this type. It was mainly for this reason that Government had to give up the original practice of incorporating paragraphs on the working of union boards in the annual resolution on the administration of the district boards and have been issuing a separate resolution on union boards. The dates at present prescribed for submission of the divisional reports and statistics for union boards appear to be unsuitable and a separate communication will be made to you on this subject. Meanwhile, an attempt should be made to expedite, as much as possible, the submission of these reports and the statistics relating to them.

## Reports and Returns (Municipalities).

### Instructions for the preparation of Divisional Annual Report on Municipalities.

*Ben., Mun., Cir. No. 17 M. of 11-4-1915, to Commrs.*

I am directed to refer to circular No. 2 T.—M., dated the 11th June 1913, forwarding a copy of Government resolution No. 442 T.M., of the same date, which embodied instructions for the preparation of annual reports on the working of the municipalities in Bengal, and to communicate the following further instructions which should be followed in the preparation of those reports:—

(a) In the body of the report a special paragraph should be added (as is at present done in the reports from the Burdwan and Presidency Divisions) regarding the inspections of municipalities made by local officers during the year to which the report relates.

(b) The percentage figures for column 4 of Appendix F (statement showing the percentage of total expenditure incurred on some of the principal items of expenditure) under the heading "General establishment" should be calculated on the total "General Administration and Collection" charges shown in column 11 of Form III of the municipal accounts.

(c) The figure to be shown in column 16\* of Form I (statement showing the constitution of municipalities) is the percentage of the average number of officials present at each meeting on the total number of officials. To obtain the average number of officials present at each meeting, it is necessary to divide the total number of attendances of official members during the year by the number of meetings held.

Thus if the number of meetings held is 20 (column 11), the number of official members 4 (column 10), and the total number of attendances put in by official members 60, then the average number of officials present at each meeting will be  $60 \div 20$ , i.e., 3, and the average percentage of officials present at each meeting will be  $3 \times 100$ , i.e., 75.

The percentages for column 17 (average percentage of non-officials present at each meeting) and column 18 (average percentage of all members present at each meeting) should also be calculated on the same principle.

I am to request that the above instructions may be communicated to the Chairmen of all municipalities in your Division.

*Ben., Mun., Nos. 1-5 T.—M. of 22-4-1919, to Commrs.*

I am directed to observe that the information given in the annual divisional reports on the working of municipalities as to the work done by municipalities in regard to sanitation other than drainage and water-supply and in regard to vaccination is insufficient to enable Government to judge of the progress made in matters of public health. I am therefore to request that in future a paragraph may be included in the reports

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\*Average percentage of official present at each meeting.

describing the measures taken by different municipalities for improving public health, such as filling up of insanitary tanks, clearing jungles, the prevention and control of epidemic diseases and the promotion of vaccination.

*Ben., Mun., Nos. 574-78 M. of 29-11-1920, to Commrs.*

It has been brought to the notice of Government that in the statements appended to annual reports on the working of municipalities the names of municipalities are not arranged either geographically or alphabetically. Some difficulty is in consequence experienced in referring to the statistics for different municipalities, and a proposal has been made that the names should be arranged by subdivisions. Government accept the proposal and direct that in these statements the names of municipalities in the same subdivision should be grouped together, the name of the subdivision being entered in italics above them, and the name of the division shown in column 1 above the names of districts. No total should be struck for the figures for each subdivision.

2. I am to request that effect may be given to this order in preparing the statements for the year 1920-21.

### **Submission of consolidated district and divisional reports on the working of municipalities.**

*Ben., Mun., order No. 4044M. of 20-7-1933, to Commr., Presy.*

With reference to your letter No. 812M., dated the 9th May 1933, enquiring whether submission of consolidated District and Divisional Reports on the working of municipalities is still necessary in view of the fact that under section 93 (I) of the Bengal Municipal Act, 1932, the municipal commissioners are required to submit to the Local Government a report on the administration of the municipality during the preceding year, I am directed to say that as the consolidated reports are essential for the preparation of resolution reviewing the reports on the working of municipalities, these reports together with the observations of District Officers and Divisional Commissioners shall, as usual, be submitted in accordance with the instructions laid down in Government Resolution No. 442T.—M., dated the 11th June 1913.

I am to add that the report on the administration of municipalities will, as enjoined in section 93 (I) of the Act, be submitted by municipal commissioners to Government separately.

*Memo. Nos. 4045-4048M., dated the 20th July 1933.*

Copy forwarded to all Commissioner of Divisions for information and communication to municipalities in their divisions for necessary action.

## **Procedure for submission of Annual Administration Report.**

*Ben., Mun., Cir. Nos. 1973-1977M. of 12-3-1935, to Comms.*

I am directed to refer to Government notification No. 4126M., dated the 5th September 1934, publishing the rules for the submission of the Annual Administration Report under section 93 of the Bengal Municipal Act, 1932, and to say that the reports submitted under these rules, containing the statistical returns and a brief summary of all important matters relating to the administration of each municipality during the year under report, shall form the basis of the Annual Government Resolution reviewing the working of municipalities in this province. For the above purpose, the District Magistrate should on receipt of a copy of the Annual Administration Report from the commissioners of the different municipalities mentioned in rule 1 of the rules referred to above, prepare and submit a consolidated report containing his observations, if any, on the different matters to the Commissioner of the Divisions by the 30th June and the Commissioners of Divisions should likewise submit a consolidated divisional report to the Local Government by the 15th of August each year. To facilitate the preparation of the Government Resolution, the consolidated reports should follow the order and, as far as possible, the method of treatment adopted in the Government Resolution. In order, however, to enable Government to compile the statistics for the Provincial Resolution an advanced copy of the prescribed returns to be appended to the Divisional Report should be submitted to Government not later than the 31st of July. If the forms are not all ready by the 31st of July, Forms I, II and III should in any case be submitted by that date, the other forms being forwarded thereafter as early as possible.

2. I am to add that this circular and the rules issued with notification No. 4126M., dated the 5th September 1934, supersede the instructions contained in Government resolution No. 442T.—M., dated the 11th June 1913, and Government order Nos. 4044-4048M., dated the 20th July 1933.

*Memo. No. 1978M., dated the 12th March 1935.*

Copy forwarded to the Revenue Department of this Government for information.

## **Reports and Returns (Union Boards).**

**Working of Union Board to be reviewed in the annual report on District Boards.**

*Ben., L.S.-G., Nos. 3443-3447 L.S.-G. of 30-7-1921 to Comms.*

In continuation of the orders contained in Government resolution No. 506T.—L.S.-G., dated the 16th June 1913, regarding the preparation of the annual report on the working of District Boards, I am directed to inform you that the Government of Bengal (Ministry of



Local Self-Government) are pleased to direct that a paragraph reviewing the working of Union Boards should be included in the report. In this paragraph mention should be made of individual Union Boards which have distinguished themselves by either good or bad work.

2. In addition to the appendices prescribed in the resolution referred to above, the following appendices in the forms annexed should be attached to the report, namely:—

*Appendix H.*—Statement showing the constitution of Union Boards;

*Appendix I.*—Statement showing the income of Union Boards; and

*Appendix J.*—Statement showing the expenditure of Union Boards.

Statistics for the whole district, and not for individual Union Boards, should be given in these appendices.

3. I am to request that effect may be given to these orders in the preparation of the reports for 1920-21.

### **Prompt submission of Appendices H, I and J and Form IV.**

*Ben. L.S.-G. Cir. Nos. 3066-3070 L.S.G. of 14-11-1929, to Commrs.*

I am directed to refer to this department's notification No. 4539 L.S.-G., dated the 2nd November 1928, amending rule 19 of the rules under clauses (f) and (m) of sub-section (2) of section 101 of the Bengal Village Self-Government Act, 1919. The principal change made was to require the Circle Officer to prepare Appendices H, I and J, and Form IV of the annual report on the working of district boards at the time of audit of the union board accounts and to submit copies of these statements to the District Magistrate at the time of submission to the district boards. The object of this change was to facilitate submission to Government by the required date, viz., 15th July, of Appendices H, I and J and Form IV, the submission of which has been considerably delayed in recent years.

2. The practice had previously been for the District Magistrate to await receipt of these appendices and Form IV from the district board, and this intermediate step was a factor making for delay. There is now nothing to prevent the submission of the required particulars by the District Magistrate to the Commissioner immediately on receiving these from all Circle Officers, the procedure being thus simplified and accelerated. It appears, however, from reports received about delay in submission of these returns for the year 1928-29 that in some cases District Magistrates have not appreciated the advantages of this simpler procedure and have delayed sending in Appendices H, I and J and Form IV until they have received them from the district boards, with the result that Commissioners have been unable to send in punctually the returns due from them to Government.

3. I am now to request that attention of any District Officer who has not compiled these particulars on receipt of the information from Circle Officers may be drawn to the advantages of the new procedure

which should be followed in all cases with the returns for the year 1929-30. It is desirable, moreover, that District Officers should impress on Circle Officers early in April the necessity of completing audit of union board accounts together with the compilation of these returns as early as possible in the financial year.

4. In the event of any serious discrepancy transpiring between the totals as compiled by the district boards and those compiled by the District Magistrate, the matter would of course require further examination and a special report might be necessary, which would be submitted in continuation of the consolidated returns.

### **Modifications in the forms of Appendices H, I and J.**

*Ben. L.S.-G. Cir. Nos. 3619-3623 L.S.-G. of 20-11-1929, to Commsrs.*

I am directed to inform you that, in view of the changes recently made in the form of the cash-book for union boards in Bengal and to make the forms as simple as possible, Government have been pleased to make the following changes in the forms of appendices H, I and J to the annual district board report which relate to union boards, namely:—

#### **Appendix H—**

*Omit column 2—Number of union boards.*

#### **Appendix I—**

*Omit column 2—Number of union boards; and*

*Insert column 15 (a)—Remuneration received for process-serving.*

*Insert column 15 (b)—Advances recovered.*

*Insert column 15 (c)—Loan receipts.*

#### **Appendix J—**

*Omit column 2—Number of union boards; and*

*Insert column 8 (a)—Ferries.*

*Insert column 18 (a)—Union bench.*

*Insert column 18 (b)—Union court.*

*Insert column 18 (c)—Remuneration disbursed for process-serving.*

*Insert column 18 (d)—Advances.*

*Insert column 18 (e)—Interest and repayment of loans.*

I am to request that these changes may be brought to the notice of the union boards and district boards in your division with instruction to give effect to them in preparing the appendices for the year 1929-30.

## Returns—Other.

### **Submission of returns showing the working of the Calcutta Improvement Tribunal.**

*Ben., Mun., order No. 1861M. of 6-3-1935 to Registrar, High Court, Appellate Side, Calcutta.*

I am directed to refer to the correspondence ending with your letter No. 15153G., dated the 6th August 1934, on the above subject, and to say that the Government of Bengal (Ministry of Local Self-Government) accept the suggestion made by the Hon'ble Judges that, for the sake of convenience, the returns to be submitted by the President of the Calcutta Improvement Tribunal should be quarterly instead of being monthly. The forms of the quarterly returns have been settled by Government in consultation with the President of the Tribunal and the Land Acquisition Collector of Calcutta and are enclosed herewith (vide Appendix) (not printed). Form I relates to valuation and apportionment cases and Form II to civil deposit cases, dealt with by the Tribunal. I am to request that steps may now be taken for the introduction of these forms and that the Hon'ble Judges may be pleased to call for the quarterly returns from the President of the Tribunal who may be asked to maintain a statistical register for the compilation of the quarterly returns. I am also to request that, if there is no objection, a copy of the returns received may, with the permission of the Hon'ble Judges, be forwarded to this department for the information of Government.

## Rent

### **Rent of houses built or purchased by District Boards for their employees.**

*Ben., Mun. (L.S.-G.), Cir. No. 46 of 11-12-1903, to Commrs.*

I am directed to refer you to Circular No. 11 B., dated the 5th May 1903, which was issued from the Public Works Department of this Government, and which laid down that when Government built or purchase residences for its officers, the officers concerned must pay the stipulated rent whether they did or did not occupy the houses provided for them. I am to say that the Lieutenant-Governor has decided that the provisions of this circular should be regarded as applicable to the case of houses built or purchased by District Boards for their employees.

## Reservation.

### **Reservation of seats for ladies in tramways.**

*Ben., Mun., order No. 5463M. of 1-12-1934, to Chief Executive Officer, Calcutta Corporation.*

With reference to the correspondence resting with your letter No. S.4333, dated the 10th/11th October 1934, on the subject of the

regulation framed by the Calcutta Tramways Company under the Calcutta Tramways Act I (B.C.) of 1880, I am directed to state that under section 24 of the Act, the Government of Bengal (Ministry of Local Self-Government) are pleased to confirm the regulation a copy of which is forwarded herewith for your information and communication to the Manager of the company.

The regulation should now be published by the Corporation in the "Calcutta Gazette" for general information, as required by the last clause of section 24.

### *Regulation.*

6A. (1) No male person above the age of 5 years shall occupy in any car any seat marked "For Ladies" or any portion of such seat, except when—

(a) there is no lady present in the car, or

(b) no lady present in the car desires to occupy the said seat or any portion of the said seat.

(2) Notwithstanding anything contained in clause (1), any male person above the age of 5 years occupying any such seat shall vacate the same when called upon to do so by the conductor or other authorised officer of the company being in uniform.

In this regulation "lady" means a female passenger over 5 years of age, and "seat" includes a complete bench whether containing one or more than one seat.

The penalty for infringement of this regulation shall be a fine not exceeding Rs. 20.

Memo. No. 5463½M., dated Calcutta, the 1st December 1934.

Copy, with a copy of the regulation forwarded to the Commissioner of Police, Calcutta, for information.

Memo. No. 5654M., dated Calcutta, the 6th December 1934.

Copy, with a copy of the regulation forwarded to the Manager, Calcutta Tramways Company, Limited, for information with reference to his letter No. 10347, dated the 19th October 1934.

## Resources.

### Augmentation of the resources at the disposal of District and Local Boards.

*India, F.C. No. 1768 A. of 23-3-1905, to Ben.*

I am directed to inform you that the Government of India have decided to augment the resources at the disposal of District and Local Boards by a grant from general revenues of an amount approximately equal to one quarter of the amount which these Boards derive from local cesses on land. A sum of Rs. 12,50,000 has accordingly been allotted to the Government of Bengal or grants to the Boards in question. The amount has been added in the Provincial budget to the head "Contribution from Provincial to Local," and an equal amount has been added to the provincial share of land revenue to compensate provincial revenues. The assignment to provincial revenues will be a fixed one, whereas the future assignment to the Boards, being calculated at one-quarter of their receipts from cesses on land, will necessarily undergo a gradual increase. The Governor-General in Council trusts that the local Government will be able to meet the small additional expenditure involved from its growing revenues.

2. The Government of India propose at the outset to leave the distribution of the grants to the discretion of the local Government, since some Boards may at present be in a financial position which would render it necessary to give them the full additional 25 per cent. on their land cess receipts, while others again may be able to spend with advantage more than the amount which would fall to them under a system of proportionate distribution. Later on, it will probably prove desirable to make the distribution rateably.

3. The Boards should be instructed that in utilising the additional grants now placed at their disposal, expenditure on roads and bridges should have preference in all cases in which additional outlay on such works can be incurred with advantage.

*Ben., Mun. (L.S.-G.), Cir. No. 26 of 3-4-1905, to Commrs.*

I am directed to forward a copy of letter No. 1768 A., dated the 23rd March 1905, from the Government of India, conveying their orders on the subject of the grant of 12½ lakhs to augment the resources at the disposal of the District and Local Boards. I am at the same time to convey the following further instructions on the subject.

2. During the year 1905-1906 the share of the grant placed at the disposal of each Commissioner of a division will be approximately equivalent to a quarter of the provincial rates raised in the division. In subsequent years, if the grants continue to be made to Commissioners, they will follow the budget estimates of the year for which they are made. As soon, however, as it is decided that a district will in future receive direct its full rateable share then from the commencement of the following year the money will be credited to the District Fund by an entry "Add 25 per cent. Government Contribution" made below the words "Total credited to the District Fund" occurring at page 3 of the Monthly Cash Account Form (A.G.-B. Form No. 1). The amount

placed at the disposal of the Commissioner of the Division will at the same time be reduced by the full annual share of each District Board so treated. •

3. The grant for the year 1905-1906 has accordingly been distributed in the following manner:—

Division.	Amount.
	Rs.
Burdwan .. .. .	1,64,000
Presidency .. .. .	1,44,000
Rajshahi .. .. .	1,32,000
Dacca .. .. .	1,59,000
Chittagong .. .. .	72,000
Patna .. .. .	3,60,000
Bhagalpur .. .. .	1,23,000
Orissa .. .. .	41,000
Chota Nagpur .. .. .	55,000
Total .. .. .	12,50,000

4. You will observe that the Government of India desire that the Boards should be instructed that, in utilising the additional grants now placed at their disposal, expenditure on roads and bridges should have preference in all cases in which additional outlay on such works can be incurred with advantage. Those Boards, however, which have not yet taken up veterinary work should now be requested to do so. Apart from communications, it is desirable that in the first instance the money should be devoted to improving the buildings and equipment of existing institutions and any tendency on the part of the District Boards to make use of the resources to establish new dispensaries and other institutions without receiving adequate assistance from the public should be discouraged.

5. With regard to the amount of public assistance which should be insisted on before new dispensaries are opened, I am in some districts are able to subscribe much more largely than in to say that no general rule can be laid down, because the public others; and, unless the proportion of the expenditure to be met from subscription were fixed with reference to the districts in which subscriptions are the least, no dispensaries at all could be established in such districts. It is obviously desirable, however, that each District Board should lay down a definite policy in this matter and should adhere to it.

6. It is important also that some definite arrangement should be made as to the proportion in which the money available should be divided between different departments. When passing the budgets of the District Boards, you will have to see that no part those mentioned in the Road Cess Act. The remaining income of the receipts from road cess is diverted to purposes other than of each Board, including the present grant, may, however, be devoted to roads and bridges, to sanitation, medical education or veterinary work; and it is important to see that the division is made on some fixed principle. Otherwise each Department, instead of devoting its whole attention to considering how

the money at its disposal may best be spent, is apt simply to clamour for a larger share of the funds available; and the Board may thus easily fail to obtain full benefit of the advice of the members who are best qualified to deal with a particular Department. This question was considered by the Lieutenant-Governor some time ago, but the fact that the resources of the District Boards were sufficient and left no margin prevented a solution from being arrived at.

7. The large addition which is made to the resources of the District Boards will enable them, not only to improve the condition of the roads, but also to make more adequate provisions for their needs in other respects. They will be in a position to take up veterinary work, if they have not already done so, to maintain and if necessary increase their expenditure on hospitals and dispensaries, on schools and on water-supply and sanitation; and in the event of scarcity they will have larger resources to fall back upon. The Orissa and Chota Nagpur Divisions, however, in which the Road Cess collections are comparatively small, will receive a measure of assistance which will not be proportionate to their needs, but the Lieutenant-Governor will endeavour to compensate for this by treating them somewhat more liberally in the matter of special grants for the purposes named above.

8. The matters dealt with in paragraphs 5 and 6 will be considered at the Conference which will be held at Darjeeling in October. I am to ask that you will give them your most careful consideration, and that you will be prepared to discuss them at the Conference. If you have much to say, it will be convenient that your opinion should be submitted beforehand so that it may be printed and circulated to the other members of the Conference.

*Ben., Mun. (L.S.-G.), Cir. No. 36 of 29-11-1905, to Commsr.*

I am directed to refer to Mr. Gait's circular No. 26 L.S.-G., dated the 3rd April 1905, with regard to the grant of Rs. 12½ lakhs given by the Government of India to augment the resources of the District and Local Boards. In paragraph 6 of that circular allusion was made to the importance of making some definite arrangement as to the proportion in which the money available should be divided between the different departments.

2. The matter has been carefully examined, and the Lieutenant-Governor has accepted the practically unanimous recommendations of Commissioners of Divisions, *viz.* :—

(1) That in distributing to the different districts their share of the Rs. 12½ lakhs, Commissioners should first see—

- (a) that any diversion from the road cess is made good;
- (b) that the expenditure on education is not less than the amount given by Government from time to time for educational expenditure; and
- (c) that the expenditure on medical is not less than the actual recurring expenditure in 1904-05.

(2) That subject to these conditions Commissioners should be allowed full discretion to distribute each District Board's share of the 12½ lakhs according to local requirements.

3. I am to enclose a statement\* which has been prepared in this office showing the receipts and charges transferred from the provincial account to the several District Boards in Bengal, and the grants made to those bodies from provincial revenues to establish equilibrium. The statement will be kept up to date and revised copies will be issued from time to time when necessary.

*Ben., Mun. (L.S.-G.), Cir. No. 9 T.M. of 29-5-1906, to Comms.*

In continuation of Mr. Shirres' circular No. 36 L.S.-G., dated the 29th November 1905, I am directed to address you with regard to the educational expenditure of District Boards.

2. When the Boards were first formed a separate settlement was made with each of them. The charges which they would have to incur on objects which had previously been defrayed from provincial revenues were calculated and funds were made over to them equal to the amount of the charges. The funds made over consisted of (1) the whole of the receipts under the Cattle Trespass Act, (2) the income from certain Government ferries, (3) miscellaneous educational receipts, and (4) where these were insufficient, a fixed recurring grant from Government. Subsequently, on different occasions when new burdens were imposed on the Boards, the Government grant was increased by an amount equal to the additional charges. The present state of the settlement with each Board was shown in the statement which was forwarded with the circular cited above, showing the receipts and charges transferred from the provincial accounts to the several District Boards in Bengal and the grants made to those bodies to establish equilibrium.

3. The most important of the duties imposed on the Boards by the Local Self-Government Act, which had not been discharged by their predecessors, the District Road Committees, were connected with education, and the great bulk of the funds transferred were allotted to this. In course of time, however, the circumstances of the Boards varied considerably, and while some of them found themselves in a position to increase their educational expenditure above the amount transferred to them, others were unable, owing to the decline of their pound and ferry revenue, to maintain the scale of expenditure which had been laid down. No remedy for this could be found (apart from the diversion of the road cess which Government could not countenance) except in some substantial addition to the Board's income. As soon, therefore, as a large grant was made by the Government of India to augment the resources of the Boards, it became necessary to see that the scale of expenditure laid down by Government should be fully worked up to. Accordingly, in the circular already referred to instructions were issued to the effect that Commissioners when distributing to the different districts the grant of Rs. 12½ lakhs given by the Government of India should see that the educational expenditure was not less than the amount given by Government from time to time for the purpose.

4. The Lieutenant-Governor finds it necessary to modify to some extent these orders. In the year 1902 an annual grant of ten lakhs of rupees was placed at the disposal of the Government of Bengal by the Government of India for the purpose of augmenting the funds devoted to education. Of this amount, more than Rs. 4 lakhs were



transferred to the District Boards for increasing the remuneration of teachers in primary schools, and in Mr. Macpherson's circular No. 10-T.G., dated the 13th June 1902, the District Boards were asked to revise their programme for expenditure on primary education accordingly. This amount has been included both in the receipts and charges shown in the statement of equilibrium.

5. The intention of the Government of India was to increase by Rs. 10 lakhs the annual expenditure on education, and this object would be defeated if Board took advantage of the additional grant to divert to other purposes the money which it was previously spending on education. His Honour has therefore been pleased to decide that, in distributing to the different districts their share of the Rs. 12½ lakhs, the Commissioner should see that the expenditure on education is not less than (1) the amount given by Government from time to time for educational expenditure, or (2) the amount expended in the year 1901-02 plus the amount of any additional grant made over to the District Boards in that year or subsequently, whichever is the greater.

6. I am to forward a copy of statement of equilibrium corrected up to 1st March 1906. You will see that two columns, numbered 16 (a) and (b), have been added to the statement, showing the educational charges transferred to the District Boards prior to April 1902 and the additional grants made subsequently. This has been done in order that the amount which the Boards should devote to education may be determined without difficulty.

**Substantial portion of augmentation grant received by District Boards should be distributed among Union Boards.**

*Ben. Govt., L.S.-G. Dept., Cir. Nos. 3267-71 L.S.-G. of 20-7-1921, to Commsr.*

The attention of the Ministry of Local Self-Government has been drawn to the fact that the activities of Union Boards are circumscribed by the limitations of finance and that the funds at their disposal are insufficient to enable them to do all the useful and beneficial work which they might otherwise do. The Minister is anxious that their resources should, if possible, be enlarged so that they may make the benefits of Village Self-Government apparent to all, and after careful consideration has come to the conclusion that the grant which is annually made to District Boards from provincial revenues for augmenting their resources and is consequently known as "the augmentation grant" should be used for this purpose and that it should be recognized that the main purpose of the grant should be to supplement the resources of Union Boards and develop village sanitation and measures of public health. The Government of Bengal, Ministry of Local Self-Government, are, therefore, pleased to direct that a substantial portion of the grant received by each District Board should be distributed among the Union Boards under it. The share of each Union Board should be determined by the District Board in consultation with the Health Officer and the Circle Officers and the Union Boards should spend their respective shares for the purpose of improving village sanitation and public health. Government at the same time reserve the option of modifying the orders of District Boards in this respect.

2. I am to request that the District Boards in your division may be informed of this decision and instructed to submit a statement, indicating the purposes upon which the money is to be spent.

## Roads.

### Approaches to railway level-crossings to be maintained by District Boards.

*Ben., Mun. (L.S.-G.), No. 31, and Cir. No. 1 of 4-1-1904, to Comms.*

The following letter to the Commissioner of Patna on the subject of the maintenance of approach roads to railway level-crossings was circulated:—

With reference to the correspondence ending with your memorandum No. 4569G., dated the 1st December 1903, regarding the maintenance of the approach roads to certain level-crossings on the Tirhut State Railway, I am directed to request that the District Boards in your Division may be asked to keep up all such approaches, whether the crossings are situated on District or Local Board roads or at places where there are no such roads.

2. I am to say that it is the policy of Government to afford every facility to Railway Companies in the matter of roads, and that in consonance with this policy it is desirable that the approaches to all level-crossings, so far as they lie outside railway boundaries, should be taken on the books of the District Board where they are not already on them. I am to point out that it is desirable in the interest of the Boards themselves that they should assert and maintain their right to run roads across the railway at such points, and that the expenditure which will be incurred for this purpose will be insignificant.

*Ben., Mun. (L. S.-G.), No. 379 and Cir. No. 5T.—M. of 29-4-1905, to Comms.*

Later the letter below to the Commissioner of Bhagalpur was circulated:—

I am directed to acknowledge the receipt of your letter No. 2L., dated 4th April 1905, on the subject of the maintenance by the Monghyr District Board of the approaches to level-crossings over railways. You point out that there are no less than 149 such crossings in the district, of which 103 are metalled, and state that the annual cost of maintenance is estimated at Rs. 4,401. Many of these crossings are not near roads, but have been provided merely for the convenience of villagers whose homesteads have been separated by the railway line from their fields. You accordingly ask that the orders contained in circular No. 1 L.S.-G., dated 4th January 1904, may be reconsidered.

2. In reply I am to say that the Lieutenant-Governor accepts your view that only those approaches to level-crossings need necessarily be maintained by the District Board which lie on a road borne on its list. The question whether in such cases the approaches should be metalled or not may be left to the discretion of the Board. As regards the approaches to other level-crossings, it may be left to the Board to decide, in each

case whether it will see to the maintenance of the crossing or leave its up-keep to the villagers for whose benefit it has been provided. I am to add that under section 11 (1) (a) of the Indian Railways Act, 1890, the duty of keeping open and maintaining the level-crossings within railway limits rests within the railway authorities.

**Right of a municipality to close a highway and exchange it for any strip of land.**

*Ben.\* Munpl. letter No. 186T.—M. of 15-6-1931, to Commr., Burdwan Divn.*

I am directed to refer to your letter No. 31M., dated the 8th January 1931, on the subject of closing a road by the Serampore Municipality in exchange for a strip of land, and to say that Government are advised that the case is covered by the ruling in the case of Nuddea Mills Company, Ltd., *versus* Siddeswar Chatterjee (56 Cal. 280), which is not referred to in the correspondence under reply. In this case it was held that the Commissioners have the power to close up a road and sell it and that this decision should be regarded as authoritative in the matter and applies to the case referred to by you. It follows that the Municipal Commissioners of Serampore are acting within their powers in closing the road in question.

**Road Development programme.**

*Ben., L.S.-G., Memorandum No. 33T.—L.S.-G. of 26-4-1934.*

Hitherto it has not been possible to take up a comprehensive programme of road development in this province as there was no prospect of money being available for the construction of roads and their maintenance. The Government of Bengal have recently decided to capitalize a portion of the proceeds of the Motor Vehicles Tax fund in order to finance the construction of some major bridges and of long life road projects in exceptional cases. Since 1930-31 this Government have been receiving subsidies from the Government of India out of the proceeds from the increased taxation on motor spirit for road development schemes, and it might be possible to capitalize a portion of the fund. It is therefore hoped that large sums will be available in the near future both for the construction of bridges and for the improvement and maintenance of roads. It has accordingly been considered necessary to be ready with a plan of road improvement made after a careful survey of the needs of the various parts of the province. To enable such a survey being made and to prepare a programme of road development including major bridges, the Government of Bengal have decided to appoint Mr. A. J. King, O.B.E., as Special Officer for Road Development Projects in addition to his own duties as Officiating Superintending Engineer, Central Circle.

The programme should be prepared with due regard to the drainage conditions so that road construction may not lead to water-logging. The first step will be the collection and collation of necessary data and the survey would, therefore, have to start by making a record giving

particulars of each road which it is proposed to construct or improve, the description of the existing roads and the type of road required, the general physical features of the country traversed, the amount of bridging required, the general nature of soil, whether the country traversed is subject to flood, and if so, whether the road should be raised above flood level or not, the crops grown, the percentage of cultivation of forest lands, waste land and special waste land rapidly susceptible of development, etc. The nature and prospects of the traffic that is likely to develop should be examined in detail and wherever possible a traffic census should be made in respect of existing roads or tracks. Special attention should be given to the construction and improvement of roads which will act as feeders to any existing pucca or trunk roads, railway stations, large towns and important bazars and hats. Competition with railways should be avoided as far as practicable. The Special Officer will gather necessary information with the assistance of Commissioners of Divisions, District Officers, Local Authorities and Railway Administrations and other departments of Government. The Government of Bengal (Ministry of Local Self-Government) hope that in order to make this scheme a success, the Commissioners of Divisions, District Officers, Local Authorities, District Engineers, Public Works Department Engineers, Railway Administrations and other departments of Government will render necessary help and co-operation to the Special Officer carrying out the investigation.

2. The Special Officer for Road Development Projects will, for administrative purposes, be subject to the direction and control of the Ministry of Local Self-Government. He is authorised to correspond direct with all authorities concerned.

*Memo. Nos. 34-228T.—L.S.-G. of the 26th April 1934.*

Copy forwarded to the Commissioners of Divisions, District Officers, Local Authorities, Railway Administrations in Bengal and other departments of Government for guidance and co-operation.

### **Road Development Programme.**

*Ben. L. S.-G. Nos. 78-82 T.—L. S.-G. at 3-5-1935.*

I am directed to address you on the subject of the procedure to be adopted for expediting the preparation and execution of local bodies schemes of road development to be undertaken from the Central Road Development Fund. So far as the schemes included in the first quinquennial programme are concerned, Government had hitherto followed the policy of entrusting such projects for execution to those local bodies which had expressed their eagerness to execute them. Experience, however, showed that the execution of schemes made over to District Boards was for various reasons very much delayed, one of the reasons being the lengthy procedure which is involved before final approval of the Public Works Department to the estimates can be obtained and dual control in the later stages. In order to avoid this delay the Provincial Road Board at its last meeting held on the 28th August 1934 recorded a resolution that all works (undertaken out of the Central Road Development Fund) costing above Rs. 30,000 should be in the direct charge of the Public Works Department, subject to the proviso that in

exceptional cases Government might allow a local body to deal with a work costing more than Rs. 30,000. As this course would facilitate quick construction, the Government of Bengal (Ministry of Local Self-Government) have decided to give full effect to the above resolution; I am to request that the local bodies in your Division may be informed accordingly.

2. Government are further pleased to direct that though the work comprised in the first quinquennial programme in respect of some of the local bodies' roads has been entrusted to the local bodies concerned for execution, the work comprised in the second quinquennial programme or future programmes in respect of those roads, will be treated as entirely new schemes and carried out by the Public Works Department of this Government, if and when their cost exceeds Rs. 30,000.

*Memo No. 83T.—L.S.G., of 3-5-1935.*

Copy forwarded to the Public Works Department of this Government for information.

## Road Cess.

### Rates or road cess in districts where the Local Self-Government Act is in force.

*Ben., Mun. (L. S.-G.), Nos. 682-90 of 10-2-1887, to Commrs.*

Section 38 of the Cess Act as amended by the Local Self-Government Act, 1885 (Schedule II), provides that the road cess shall be assessed and levied in each district.....at such rate as may be determined for such year by the District Board. The law thus leaves it entirely to the Boards themselves to fix the rates; and the sanction of any higher authority is only necessary, under section 46 of the Local Self-Government Act, in cases in which the Board may determine to reduce the rate of cess in any district, Sections 154 and 155 of the Cess Act having been repealed, and the reference to the latter section in section 40 of the Act omitted, it is no longer necessary for the Lieutenant-Governor to publish the rate of road cess fixed in any of the districts under reference. The District Boards should therefore be requested to arrange for the publication of the rates in the *Calcutta Gazette* as soon as these are fixed by the Boards at a meeting.

## Rules.

### Penalty for the violation of rules framed regulating sanitary arrangements in hats and markets.

*Beng., L. S.-G. Order No. 1352 L. S.-G., 12-3-1937, to District Board.*

I am directed to refer to your letter No. 15250G., dated the 6th November 1936, forwarding for the consideration and orders of Government a copy of a letter from the District Health Officer, Mymensingh,

in which he points out the difficulty in enforcing the rules, framed under the Local Self-Government Act, for regulating the standard of sanitary arrangements in *hats* and markets, in the absence of penalty provisions against their violation.

2. In reply, I am to say that, in view of the provisions of the Local Self-Government Act, no penalty can be provided by a rule for a breach of any of the provisions of the rules in question. The general provision of section 190 of the Criminal Procedure Code, however, applies in such cases and prosecutions for a violation of any of the rules may be started when necessary under the relevant section of the Indian Penal Code.

*Memo. Nos. 1553-1357 L.S.-G. of the 12th March 1937.*

Copy forwarded to all Commissioners of Divisions for information and communication to the district boards in their respective divisions.

*Memo. No. 1358 L.S.-G. of the 12th March 1937.*

Copy forwarded to the Revenue Department of this Government for information.

**Question of starting prosecution by district board against the violation of an order under section 100C of the Local Self-Government Act.**

*Beng., L.S.-G., Order No. 6482 L.S.-G., of 29-11-1937, Commr., Dacca.*

I am directed to refer to your memorandum No. 5594J., dated the 8th September 1937, in connection with the question whether under section 100D of the Local Self-Government Act, a district board is authorized to start prosecution against the violation of an order made by it under section 100C of the Act, in respect of sanitary arrangements of a private *hat* or market.

2. In reply, I am to explain that under section 100C of the Local Self-Government Act, a district board may, subject to rules framed under section 138(p), require the owner or lessee of a private *hat* or market to make proper sanitary arrangements and to remove insanitary conditions within such *hat* or market. The rules referred to had already been made and published with notification No. 3164 L.S.-G., dated the 24th May 1935. Of these rules, rule 2 enjoins certain duties to be performed by the owner or lessee while rule 5 prohibits him from doing certain other things. The remaining rules, viz., 3, 4 and 6, are applicable to the vendors in the *hat* or market. In view of the last clause of section 138 no penalty could be prescribed against the violation of any of these rules. If, however, the district board issues an order under section 100C, say on the lines of rules 2 and 5, requiring the owner or lessee to do or to refrain from doing certain things, they are liable to the penalty prescribed by section 100D for contravention of such an order. Section 100D, read with section 100C, thus serves the purpose of a penalty provision in so far as the owner or lessee is concerned. Neither section 100D nor section 141, however, authorizes the district board to institute prosecutions for enforcement or realization of the penalty.

3. In view of the legal position and as advised by the law officers of Government you were informed in Government order Nos. 1352-1357 L.S.-G., dated the 12th March 1937, that in the absence of any specific provision in the Act regarding the institution of prosecutions, the general provision of section 190 should apply to such cases.

4. I am to observe further that the difficulty experienced by district boards in this respect, under the existing provisions of the Local Self-Government Act, has already been noticed by Government and the question of making necessary amendments in sections 138 and 141 will be examined when the Act is next amended.

*Memo. Nos. 6483-6486 L.S.-G., of the 29th November 1937.*

Copy forwarded to all Commissioners of Divisions (except Dacca) for information.

*Memo. No. 6487 L.S.-G., of the 29th November 1937.*

Copy forwarded to the Director of Public Health, Bengal, for information in continuation of Government order No. 1352 L.S.-G., dated the 12th March 1937.

### **Model Rules regarding duties of municipal health officers.**

*Ben., Mun., Cir. Nos. 3501-3505 M., of the 19-6-1935, to Commrs.*

In continuation of this department circular Nos. 5587-5591 M., dated the 5th December 1934, I am directed to say that the following rule has been prescribed under section 75 (i) of the Bengal Municipal Act, 1932, and added to the model rules regarding duties of municipal Health Officers. I am to request that the additional model rule may be forwarded to the municipal commissioners in your division for their guidance with the request to adopt the same with necessary sanction :—

“36. *Private practice.*—The municipal Health Officer or Assistant Health Officer shall not engage in private practice of any kind.”

*Memo. No. 3506 M., of the 19th June 1935.*

Copy, with a copy of this department circular Nos. 5587-5591 M., dated the 5th December 1934, forwarded to the Revenue Department of this Government for information.

## **Rules of Business.**

### **Model Rules of Business for District Boards.**

*Ben., Mun., Nos. 1769-72½T.—M. of 13-9-1886, to certain Commrs.*

In paragraph 7 of Government order No. 1325-29T.—M., dated the 1st July last, it was stated that the Lieutenant-Governor proposed to circulate to the District Boards, when constituted under the Local

Self-Government Act, a specimen set of rules which should serve as a convenient model in respect of form, wording, and subject-matter for the rules for the conduct of business to be made by the Boards under section 32 of the Act. The Model Rules have now been framed, and I am directed to forward copies\* of them for circulation to the District Boards in your division, and for record in your office. It should be clearly explained to the Boards that these rules are intended to serve only as a model for their guidance, and that they are not in any way bound to adopt any rule or rules which they may deem unsuited to the conditions of their districts.

### **Rules regarding proceedings of District Board Committees.**

*Ben., L. S.-G., Cir. Nos. 597-601 L. S.-G. of 18-2-1926, to Comms. as amended by Cir. Nos. 1067-1071 L. S.-G. of 16-3-1927.*

I am directed to refer to this department memorandum Nos. 4935-4939 L. S.-G., dated the 9th December 1924, forwarding certain draft rules regarding proceeding of District Board Committees which Government proposed to frame under section 138 (b) of the Local Self-Government Act. A doubt having arisen as to the validity of these rules under the section quoted, the matter was referred to the Legal Remembrancer who is of opinion that the term "Committee" in clause (b) of section 138 refers to Union Committees where they exist. Where Union Committees have been replaced by Union Boards the term has, for all practical purposes, become meaningless. Government have been advised that the proposed rules come under section 32 rather than section 138 (b) of the Local Self-Government Act. They are, therefore, pleased to prescribe the enclosed rules under clauses (a), (d), (e) and (h) of section 32, as Model Rules of Business in place of existing rules 54 to 57. Opportunity has also been taken to modify some of the rules as preliminarily notified in the light of the criticisms received. I am to request that the District Boards in your division may be asked to adopt them with your sanction.

### **MODEL RULES OF BUSINESS UNDER CLAUSES (A), (B), (E) AND (H) OF SECTION 32 OF THE LOCAL SELF-GOVERNMENT ACT.**

#### *Proceedings of Committees.*

54. A Committee shall ordinarily meet once in every month on the date fixed by the Board, provided there is business to be transacted.

Provided further that the Chairman may, for special reasons, call a meeting of any Committee at any date other than the date fixed by the Board.

54A. At least four days' notice shall be given to every meeting of Committee, provided that the Chairman may, for special reasons to be subsequently explained in the meeting of the Committee, call a meeting at a shorter notice than four days.

54B. The notice shall set forth clearly and fully the business to be transacted at the meeting and no business other than that so stated shall be transacted except with the consent of all the members present.

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\*Not printed as they are embodied in Collier's Local Self-Government Manual.



55. The quorum of a Committee shall be three members.

56. A Committee shall elect one of its members to be Chairman of its meetings, provided that if the Chairman or Vice-Chairman of the Board be a member of the Committee, such Chairman or Vice-Chairman, as the case may be, or, if both of them be members, the Chairman, or in his absence the Vice-Chairman, shall be the ex-officio Chairman of the Committee's meetings.

57. If the Chairman or Vice-Chairman of the Board be not a member of the Committee, or if no Chairman is elected, or if the Chairman elected is not present at the time of holding the meeting, the members present shall choose one of their number to be Chairman for that meeting.

**Amount of leave that can be granted by District Boards to its employees.**

*Ben., L. S.-G., Cir No. 3703-07 L. S.-G. of 27-9-1927, to Commrs.*

Rule 69 of the Model Rules of Business, under section 32 of the Bengal Local Self-Government Act, imposes no restriction on the amount of leave (other than casual leave or leave on medical certificate for a period not exceeding a month) that can be granted by the District Board at a meeting to its employees. This might create an impression that the Board's power of granting leave is unlimited. I am, therefore, to explain that the rule does not really empower the Board to extend to its employees concessions in the matter of leave in excess of what would be admissible to officers of Government holding similar posts; in other words, the leave enjoyable by the District Board employees is still subject to the provisions of article 811 of the Civil Service Regulations and more favourable leave rules for them required special sanction under that article. In order to make the point clear Government are pleased to make the following amendments to the Model Rules. I am to request that the District Boards in your division may be asked to adopt them with your sanction.

*Amendments.*

(i) Delete the last sentence of rule 69.

(ii) After rule 69, insert the following new rule:—

“69A. All other leave must be granted by the Board at a meeting, provided that the leave and leave allowances granted to any employee shall in no case exceed that or those to which he would be entitled if he were a Government servant.”

**Question whether a Chairman of district board can for special refuse to include in the agenda a motion of which due notice has been received.**

*Ben. L.S.-G. letter No. 1665 L.S.-G. of 28-4-1930, to Commr.,  
Presq. Divn.*

I am directed to refer to your letter No. 253 L.S.-G., dated the 27th January 1930, with which you refer for the orders of Government the

question whether a Chairman of District Board can for special reasons refuse to include in the agenda a motion of which due notice has been received.

2. In reply, I am to say that Government have been advised that the Chairman of a District Board which has adopted the model rules of business has no option but to include in the agenda any motion of which due notice has been given. Rule 9 of the rules of business does not leave any discretion with the Chairman. The only discretion that he may exercise is given by rule 20 of those rules. When he presides at the meeting he may rule that the motion is illegal or out of order. Any matter which is evidently seditious or defamatory may be excluded on the ground that it is illegal.

**Adoption by District Boards of the Fundamental Rules as regards leave and travelling allowances is not necessary.**

*Ben., L.S.-G., Nos. 4253-57 L.S.-G. of 6-11-1923, to Commsr.*

I am directed to refer to your letter No. 1025 M., dated the 19th April 1923, regarding the adoption by the Rangpur District Board of the Fundamental Rules as regards leave and travelling allowances for its employees and to say that rule 69 of the Model Rules of Business, which regulate leave for District Board employees, give the District Board wide powers in this matter. There is nothing in this rule which would prevent the Board from granting to its employees the concession of the Fundamental Rules without adopting the latter.

2. As regards travelling allowance, I am to say that rule 112 of the District Board Account Rules permits a District Board to grant travelling expenses to its employees at rates not exceeding what would be admissible to similar officers in Government service under Part XI of the Civil Service Regulations. This part of the Civil Service Regulations has been superseded by Subsidiary Rules prescribed by Government under the Fundamental Rules, but, on the analogy of section 10 of the Bengal General Clauses Act, these Subsidiary Rules should be taken as having replaced Part XI of the Civil Service Regulations referred to in Account Rule 112. The Subsidiary Rules for travelling allowance to Government servants are, therefore, available in the case of District Board employees.

3. In the above circumstances the Government of Bengal (Ministry of Local Self-Government) do not consider the adoption by the Rangpur District Board of the Fundamental Rules relating to leave and travelling allowances necessary.

4. I am to request that a copy of this order may be forwarded to the District Boards in your Division.

**Model rules regarding leave, fining, suspension and removal of municipal officers and servants and the nature and amount of security deposits to be furnished by them.**

*Ben., Mun., Cir. Nos. 6482-6486 M., of 28-11-1933, to Commsr.*

I am directed to forward herewith copies of revised model rules regarding leave, fining, suspension and removal of municipal officers

and servants and the nature and amount of security deposits to be furnished by them, under section 75 of the Bengal Municipal Act, 1932, for circulation to the municipalities in your division. These rules will be found useful as a guide. The commissioners will not be bound to adopt any of them which they may deem unsuited to their municipality, but whenever the rules adopted differ materially from these on any point, the reasons for the variation should be explained when they are submitted for the sanction of the local Government under section 75 of the Bengal Municipal Act, 1932.

*Model rules regarding leave, fining, suspension and removal of municipal officers and servants and the nature and amount of security deposits to be furnished by them.*

1. Casual leave for a period not exceeding 7 days at any one time, or 15 days in 12 months, and leave on medical certificate for any period not exceeding a month, may be granted by the chairman with or without pay and with or without the appointment of a substitute, to any officer or servant of the commissioners.

2. The chairman may also grant to a female servant of the commissioners maternity leave on full pay for a period which may extend up to the end of 3 months from the date of its commencement or to the end of 6 weeks from the date of confinement, whichever be earlier. Leave of any other kind may be granted in continuation of maternity leave, if the request for its grant be supported by a medical certificate.

3. All other leave must be granted by the commissioners at a meeting provided that the leave and leave allowances granted to any employee of the commissioners shall in no case exceed that or those to which he would be entitled if he were a Government servant.

4. The chairman may inflict for neglect of duty a fine not exceeding one-fourth of a month's pay upon an officer or servant of the commissioners: provided that the orders of the chairman inflicting a fine on an officer drawing Rs. 20 per mensem or upward shall be submitted for the confirmation of the commissioners at their next ordinary meeting.

5. The chairman may suspend any officer or servant of the commissioners for misconduct or incompetence: provided that in every case in which the officer's salary exceeds Rs. 20 per mensem, the matter shall be laid before the commissioners at their next ordinary meeting.

6. Before any officer is removed or dismissed the charges against him shall be reduced to writing and communicated to him and his reply, if any, shall be recorded.

7. The amount of security to be deposited by a municipal employee who is required to handle cash should be fixed at 10 per cent. above the highest amount likely to be in his hands at any one time: provided that the security of officers with 20 years' approved service under a municipality or upwards may be diminished by a sum calculated on their monthly pay, multiplied by 25, subject to the condition that the security shall in no case be diminished by more than one half.

8. Officers who have to furnish securities in excess of Rs. 500 shall give it either in cash or in the form of Government promissory

notes. If it is given in cash the sum will be invested in Government promissory notes and the balance left, if any, shall be placed in the savings bank as a security deposit.

9. Officers who have to give security of Rs. 500 or less shall give it in the form of post-office savings bank deposits. Government promissory notes may, however, be accepted from such officers.

10. If an officer is unable to furnish the full amount of security, due from him, in a single payment, he may, at the discretion of the municipal commissioners, be permitted to pay it by monthly instalments of not less than one-fourth of his pay within a maximum period of 5 years.

11. In exceptional cases, the municipal commissioners may, with the sanction of the local Government vary or alter the above rules in favour of particular officers for reasons to be recorded in writing.

12. Store-keepers, sub-store-keepers and subordinates entrusted with the custody of stores shall be required to furnish security of an amount calculated to cover the following proportion of the value of the stores under their charge:—

- |   |        |                |
|---|--------|----------------|
| (a) Heavy tools and plant (rollers, machines, etc.)                                       | ...    | Nil.           |
| (b) Heavy stores not readily saleable in the locality<br>(joists, largest sections, etc.) | ... .. | Half<br>value. |
| (c) Light stores for which there is a ready sale in the<br>local market                   | ... .. | Full<br>value. |

If any departure is desired from this scale owing to the circumstances of any case or local conditions the sanction of Government will be required. The municipal commissioners shall determine whether the amount of the security will be paid in a lump sum or by deductions from pay. The security shall be invested in the manner prescribed in rules 8 and 9.

### **Model rules of business for municipalities under section 91 of the Bengal Municipal Act, 1932.**

*Ben., Mun., Cir. Nos. 350-54M., of 3-2-1934, to Comms.*

I am directed to forward herewith copies of revised Model Rules of Business, under section 91 of the Bengal Municipal Act, 1932, for circulation to the municipal commissioners in your Division, for their guidance, and to request that whenever the rules proposed to be adopted by the commissioners of any municipality, differ materially from these rules on any point, the reasons for the variation may be explained when such rules are submitted for the sanction of the local Government, under section 91 of the Bengal Municipal Act, 1932.

**Model rules of business for municipalities under section 91 of the  
Bengal Municipal Act, 1932.**

*I. The time of meetings, the business to be transacted at meetings, and  
the period of notice of meetings.*

*Rule 1.*—An ordinary meeting of the commissioners shall be held at the hour of.....on the.....day\* of every month:

Provided that if the.....day of any month falls on a gazetted holiday, or if for any reason it is deemed inconvenient, the Chairman or in his absence the Vice-Chairman may fix another day for the ordinary meeting.

2. Other meetings may be held on such day and at such time as may be fixed by the Chairman, or in his absence by the Vice-Chairman.

3. Notice of motions and questions, accompanied by verbatim drafts, shall be sent to the Chairman, or in the case of there being a Secretary, to the Secretary, in time to be included in the list of business for the next meeting. Notices received too late shall be inserted in the list of business of the next succeeding meeting.

4. A notice book shall be kept by the Chairman in which all notices of motions shall be entered. All such notices shall be dated and numbered as soon as received.

5. At least one week's notice of all meetings shall be given to every Commissioner.

6. When a notice of a meeting has been issued to the commissioners it shall not be cancelled or postponed unless at least three clear days' notice of such cancellation or postponement is given to the commissioners:

Provided that in no case shall a meeting, of which due notice has been given, be cancelled or postponed if by such cancellation or postponement, the business on the agenda cannot be transacted within a definite period prescribed by law for the purpose.

*II. The conduct and control of proceedings at meetings, the due record  
of all dissents and discussions, and the adjournment of meetings.*

**ORDER OF BUSINESS.**

7. At ordinary meetings the business shall be conducted in the following order:—

- (a) The minutes of the last ordinary meeting, and of any special meeting held thereafter, shall be read and if approved as correctly entered, shall be signed by the President of such meeting.
- (b) Business postponed from the last ordinary meeting shall be considered.
- (c) A progress report of works shall be laid before the commissioners.

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\*e.g., "first Monday, last Saturday."

(d) Letters and reports of committees shall be read and accounts and statements shall be considered and passed.

(e) Motions of which due notice has been given shall be discussed.

8. At a special meeting, only the business for which the meeting was called shall be considered; provided that with the consent of the commissioners present any other business, of which notice has been sent to every commissioner at least three days previously, may be considered.

9. In the event of any objection being raised to the manner in which any resolution has been recorded, the President shall decide the question after reference to the original draft of the resolution, and if he finds the minute to be inaccurate, shall make the necessary correction in the minute book.

10. Except by the permission of the majority of the commissioners present at the meeting, all subjects shall be discussed in the order in which they appear in the list of business.

#### OF QUESTIONS.

11. If due notice has been given under rule 3, any commissioner may, before other business commences, ask a question or questions of the President relating to the affairs of the municipality. Such commissioner may briefly explain his question when putting it, and the President may explain his answer; but no debate shall be allowed on any question. The President shall, when he thinks it advisable, have the answer to such question printed and laid before the meeting.

#### OF MOTIONS AND AMENDMENTS.

12. Every motion and amendment duly moved shall be seconded, and, until seconded, no debate thereon can take place.

13. Every motion or amendment duly made and seconded, and pressed to a division, shall be reduced to writing and signed by the proposer and seconder before being put to the vote. Every such motion or amendment shall be recorded in full in the proceedings, together with the number and names of voters for and against it.

14. Every amendment shall be so worded as to be capable of making an intelligible sentence either alone or in its proper place in an original motion, as the case may be; provided that no amendment shall be allowed which in effect only negatives the original motion.

15. The President of the meeting may, for reasons to be recorded in writing and entered in the minutes of the proceedings,—

(a) rule that a motion or amendment is illegal or out of order, and

(b) make such alterations in a motion or amendment as shall, in his opinion, render it legal and in order;

and may, in case (a) refuse to put the motion or amendment to the meeting, and in case (b) refuse to put the motion or amendment to the meeting unless and until the proposer and seconder accept and sign the alterations made.

And the decision of the President shall be final.

16. After a motion has been moved and seconded, an amendment may be moved at any stage of the debate thereon.

17. On the discussion being concluded, in the event of several amendments having been proposed, the President shall put the last amendment to the vote first and if it is lost, he shall put the amendment preceding the last amendment and lastly the first amendment, and if all the amendments are lost, the original motion shall be put to the vote.

18. When a motion or an amendment has been put from the chair, and has been declared by the President to be duly carried, no further proposals for amending the motion or amendment can be entertained.

#### OF THE RIGHT TO SPEAK.

19. The President may require the commissioners to stand when they address the meeting.

20. The commissioner, who first rises to address the meeting, shall be entitled to be heard first, and should more than one commissioner rise to address the meeting at the same time, the order of precedence shall be determined by the President.

21. Any commissioner shall be at liberty to call the attention of the President to a point of order, even when a Commissioner is speaking. On a point of order being raised, the commissioner addressing the meeting shall resume his seat until the question has been decided by the President. After the decision of the President, the same point of order cannot be raised again. Except as provided by this rule no commissioner shall interrupt a speaker in possession of the meeting.

22. Except as provided in rule 11 or rule 21, no commissioner shall speak except to move or second a motion or amendment, or to support or oppose a motion or amendment which has been duly moved and seconded.

23. A speaker, who has exhausted his right to speak on an original motion, may speak on any amendment being moved, as that raises a new question.

24. The mover of a motion or amendment shall, in all cases, have a right of reply, but otherwise no commissioner shall speak more than once on the same motion or amendment, unless in explanation of some part of his original speech.

#### OF PROTESTS OR DISSENTS.

25. Protests shall be limited to a concise and definite statement of the motives which prompted the votes of commissioners who voted in the minority on a given question.

26. Protests shall be handed to the President before the conclusion of the meeting at which the motion protested against was passed.

27. Protests duly made shall be appended to and published with the minutes.

#### OF ADJOURNMENTS.

28. It shall be competent to any commissioner to move the adjournment of the debate or of the meeting in a speech not exceeding five minutes in duration.

29. When a motion for the adjournment of the meeting or of a debate is made, it shall be seconded without a speech, and put by the President to the vote, without debate or amendment.

30. No motion for the adjournment of the meeting or of a debate shall be admissible which proposes an adjournment beyond the next ordinary meeting.

#### ADJOURNED MEETINGS.

31. No business shall be transacted at an adjourned meeting save that which was left unfinished at the original meeting.

#### MISCELLANEOUS.

32. Unless and not less than two-thirds of the commissioners consent by signing a requisition, no subject once finally disposed of can be reconsidered within six months of its disposal.

33. For the purpose of taking into consideration any business involving many details, the meeting may resolve itself into a committee of the whole body. When such action has been taken, the rule prohibiting any person from speaking more than once on the same question shall be deemed suspended until the meeting resumes.

34. Voting by proxy is prohibited; and no commissioner shall vote upon any motion or amendment unless he is present in person at the time when it is put to the vote.

35. The minutes shall contain a brief abstract of the discussion on every motion.

36. A copy of the minutes of the proceedings of any meeting of the commissioners shall be supplied to every commissioner who may apply for it. An abstract of the minutes shall be affixed in some conspicuous spot accessible to the public at the place of meeting of the commissioners.

#### *III. The custody of the common seal.*

37. The common seal shall remain in the custody of the Chairman: provided that if a Secretary has been appointed, the Chairman may by a written order delegate the custody of the seal to the Secretary.

#### *IV. Division of duties among the commissioners.*

38. The commissioners may, from time to time, delegate to one or more of their number the duty of inspecting any work which is being carried out under their orders or any institution under their control and management.

#### *V. (i) Manner of appointment of committees.*

39. The commissioners at a meeting may for each year appoint any of the following or other standing committees as may appear to be necessary in accordance with section 86 of the Act, namely:—

(1) Finance Standing Committee.

(2) Public Works Standing Committee



(3) Sanitation and Public Health Standing Committee.

(4) Medical Standing Committee.

40. The members of a standing committee shall hold office for one year only but shall be eligible for reappointment.

41. Save in the case of illness, a member of a standing committee who, without the previous permission of the commissioners, shall fail to attend six consecutive meetings of such committee, shall thereby cease to be a member and the committee shall apply to the commissioners at a meeting to appoint another member in his place.

42. Whenever any commissioner shall move a motion for the appointment of a committee of a special nature, under section 89 of the Act and such motion is duly seconded and carried, it shall be incumbent on the mover—(1) to move that the committee shall consist of a definite number of persons (any other number may be moved as an amendment); and (2) to draw up a list of as many persons as may be thus fixed for constituting the committee. On this list being seconded, any other commissioner may either move the substitution of any one or more names for one or more of those contained in the list, or draw up a different list, and move that it be substituted for the list proposed by the mover of the original motion:

Provided always that if a ballot be demanded by at least five members the Chairman shall put it to the meeting whether they wish the election to be by ballot and if this is carried the committee shall be elected by ballot.

43. (1) The commissioners may appoint for any ward or group of wards a committee to which they may delegate such of their functions, powers and duties as they may think fit relating to such ward or group of wards and to which they may refer for inquiry and report or for opinion such matters relating to such ward or group of wards as they may think fit.

(2) Any such committee shall include the commissioner representing the ward or the wards for which the committee is appointed.

#### *(ii) Constitution of Committees.*

44. A standing committee shall not consist of more than nine members and no commissioner shall at the same time be a member of more than two standing committees.

#### *(iii) Regulation and conduct of business of standing and special committees.*

45. Every committee shall conform to any instructions that may from time to time be given to them by the commissioners at a meeting.

46. Every committee shall appoint one of their number to be their chairman; provided that no person shall at the same time be the chairman of more than one committee.

47. In the absence of the chairman the members of the committee shall choose one of their number to preside over their meeting.

48. A committee may meet and adjourn as it thinks proper.

49. The quorum of a committee shall be one-third of its total number, provided that not less than two shall constitute a quorum.

50. Every question at a meeting of a committee shall be determined by a majority of votes of the members present and voting on that occasion.

51. In case of an equal division of votes the president shall have a second or casting vote.

### **Power of municipalities of making rules of business.**

*Ben. L. S.-G., order No. 577 L.S.-G., of the 21-1-1935, to the Commr., Rajshahi.*

I am directed to refer to the correspondence ending with this department order No. 4957 L. S.-G., dated the 11th October 1934, regarding rules of business of the Malda Local Board and to say that under section 32 of the Local Self-Government Act, 1885 (Bengal Act III of 1885), local boards can make rules of business with the sanction of the district board and of the Commissioner and subject to the control of the Local Government and the previous sanction of Government is not required in each case. The Commissioners of Divisions may use their discretion in according sanction to the rules a copy of which may, after such sanction, be forwarded to Government for information. No such rules need be referred to Government except on any specific points on which the Divisional Commissioner may desire to have a definite ruling from Government. I am to say that this practice should be followed in such cases in future.

*Memo. Nos. 578-581 L. S.-G., of the 21st January 1935.*

Copy forwarded to all Commissioners of Divisions except Rajshahi.

### **Rules of Business for the Garden Reach municipality.**

*Ben., Mun., order No. 3001M., of 13-5-1935, to the Chairman, Garden Reach Municipality.*

I am directed to refer to your letter No. 42, dated the 10th April 1935, on the subject of rules, regulations, etc., to be in force in the Garden Reach Municipality under section 14 of the Garden Reach Municipality Act, 1932. I am to say that Government have taken legal opinion in the matter and are advised that under section 14 of the rules, etc., framed under the Bengal Municipal Act of 1884, come into force in the Garden Reach Municipality until they are superseded; where these rules are inconsistent with rules already made under the Bengal Municipal Act of 1932, which applies to the Garden Reach Municipality, they are *ipso facto* immediately superseded. Therefore, the rules in force in the municipality are the rules framed under the Bengal Municipal Act, 1932, together with rules under the Act of 1884 for matters not provided for by the rules under the former Act.

2. I am to enclose herewith a set (*vide* list) of the rules and bye-laws framed by Government under the Bengal Municipal Act, 1932, for your information and guidance.

*Memo. No. 3002M. of the 13th May 1935.*

Copy with a copy of the letter under reply forwarded to the Commissioner, Presidency Division, for information.

### **Model Rules of Business.**

*Ben., Mun., cir Nos. 4892-4896M., of 20-8-1935, to Commrs.*

I am directed to say that the Government of Bengal (Ministry of Local Self-Government) are pleased to make the following amendments in the Model Rules of Business, framed under section 91 of the Bengal Municipal Act, 1932, and circulated with Government order Nos. 350-54M., dated the 3rd February 1934, and to request that the municipal commissioners in your division may be requested to adopt them with the necessary sanction:—

#### *Amendments.*

1. *Add* the following at the end of rule 39:—

“(5) Standing Ward Committee for any ward or group of wards: Provided that the Standing Ward Committee shall include the commissioner or commissioners representing the ward or group of wards, as the case may be, for which the Committee is appointed.”

2. *Delete* rule 43.

*Memo. No. 4897M. of the 20th August 1935.*

Copy forwarded to the Revenue Department of this Government for information.

### **Sales.**

**Legality of Municipal Commissioners buying up a property put up to sale for arrears of taxes.**

*Ben., Mun. (Mun.), No. 2250M. of 6-8-1901, to Commr., Burdwan.*

With reference to your memorandum No. 535M., dated the 15th July 1901, and its enclosures, I am directed to say that Government is advised that there is no objection to the Municipal Commissioners

buying in a holding put up to sale under section 361 of the Bengal Municipal Act, provided that the holding is required for any of the purposes specified in section 69, or for any of the other purposes of the Act, and that the Commissioners determine to make the purchase for such purpose.

2. The Commissioners are not, however, authorised to buy in holdings put up for sale for arrears of taxes unless the purchase is made under section 34 for the purposes of the Act.

## Securities.

### Security bonds of District Board and Municipal employees.

*Ben., Mun., Cir. No. M-2 E/1, s. 7 of 31-7-1889, to Commsr.*

I am directed to communicate to you, for information and communication to all municipalities in your division the following facts in connection with a case of embezzlement of the funds of a municipality which has been brought to the notice of Government.

The town in question, which was formerly a union, was constituted a second class municipality in 1883 by a notification under section 8, Act V (B.C.) of 1876, and the tax-collector of the union was appointed to be tax-collector and cashier of the municipality.

It was recently discovered that the tax-collector had embezzled a portion of the municipal funds which he had collected and was keeping in his capacity as cashier. A civil suit was brought against him and the person who had executed a security bond for him during the existence of the union, but the suit failed on the grounds (i) that the bond which was executed in favour of the Secretary of State was not available to the municipality, and (ii) that a bond guaranteeing the integrity of a tax-daroga was no security for similar integrity when the work of cashier had been added to his duties. I am directed to request that these facts may be brought to the notice of the municipal committees in places which were formerly unions, and that it may be suggested to them that the security bonds given by those of their servants who are entrusted with the custody of municipal funds should be examined with reference to the decision of the Civil Court referred to above, and that such action as may be found necessary should be taken in each case.

*Ben., Mun., Cir. No. M-4 S/9 of 5-4-1890, to Commsr.*

With reference to Government circular No. M-2 E/1, s. 7, dated 31st July 1889, I am directed to forward herewith a copy of draft security bond\* prepared by the Government Solicitor for execution by the employees of District Boards and municipalities. I am to request that you will be so good as to instruct the District Boards and municipalities in your division to adopt this form in future in lieu of the practice, which generally obtains at present, of taking the security by savings bank deposit, and requiring the depositor to sign

\*Not printed as it is embodied in the Local Self-Government Municipal Account Rules.

a declaration that the deposit shall not be withdrawn except with the written permission of employers and that no objections will be raised to the payment of the amount to the employers if they claim it.

*Ben., Mun., No. 2447M. and Cir No. 19M. of 26-7-1893, to Commrs.*

With reference to your letter No. 448M., dated the 17th June 1893, I am directed to say that the Chairman and Vice-Chairman of a municipality must be held responsible for the periodical testing of the securities furnished by the employees of a municipality.

2.\* When a municipality is inspected, the inspecting officer should always state in his memorandum of inspection whether securities have been taken from the municipal servants, and if so, of what kind each is, when and by whom it was last tested, and what was the result of that testing.

3. This question of securities and the testing of them should also be specially noticed in the Annual Report of each municipality.

*Ben., Mun., Cir. No. 24M. of 1-3-1899, to Commrs.*

The attention of Government has lately been called to the fact that municipal servants are occasionally permitted to give security in landed property instead of in cash, and that no form of security bond for use in such cases has been prescribed. A form of security bond to be used in such cases has, therefore, been prepared by Government and copies are enclosed\* with the present letter for distribution among such municipalities in your division as may require them. Wherever security in landed property is accepted and these forms are used, it will be necessary to investigate the title to the property, to ascertain the family history of the mortgager, unless the property is clearly self-acquired, and also to search the local registration office for the purpose of ascertaining the encumbrances on the property, if any. Attention should also be drawn to the necessity for registering these documents.

## Service Books.

**Service books to be kept by all employees of District Boards and Municipalities.**

*Ben., Mun. (L.S.-G.), Cir. No. 1 of 12-1-1895, to Commrs.*

The question having been raised whether it is necessary to keep up service books for such employees of District Boards as come under the Provident Fund Rules, the Lieutenant-Governor is pleased to direct that service books should be kept up for all employees of District Boards, without distinction, since, besides the value these books possess as evidence of service for pension, they form, when properly written up, a convenient record of an employees antecedents and general conduct; these considerations apply with equal force to the servants of a municipality, and the Lieutenant-Governor desires that for them also service books should be maintained in all cases.

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\*Not printed as they are embodied in the Municipal Account Rules.

## Stamp.

### Stamp duty on applications to Municipal Commissioners in conservancy and improvement matters.

*Ben., Mun., Cir. No. 47M, of 16-11-1896, to Commrs.*

On a reference made by the Chief Commissioner of the Central Provinces, the attention of the Lieutenant-Governor was drawn to the question of the interpretation put upon article 1 (a) of Schedule II of the Court-fees Act by municipalities in Bengal. It appears from the replies to a circular\* issued on the subject that the practice varies greatly in different municipalities, and that it is hardly anywhere in strict accordance with the law. I am directed to request therefore that all the municipalities in your division may be informed that, in the opinion of the Legal Remembrancer, only those applications presented to the Commissioners of a municipality are chargeable with a 1-anna stamp, which relate solely to matters of "conservancy," or "improvement," such as those covered by Parts V, VI, IX and X of the Bengal Municipal Act, III of 1884, as amended by Bengal Acts IV of 1894 and II of 1896. Municipal Commissioners should act on this view of the law until further orders.

### Question of payment of court-fees on application to the Magistrate under the Municipal or Local Board Election Rules.\*

*Ben., Mun., No. 1857M, of 25-5-1925, to the Commr., Dacca.  
(Copy to other Commrs.)*

With reference to your letter No. 1405J., dated the 20th March 1925, enquiring whether no fee under the Court-fees Act is to be charged on applications to the Magistrate under rule 10 of the Bengal Municipal Election Rules and rule 24 of the Local Board Election Rules, I am directed to say that the question was referred to the Legal Remembrancer and that Government have been advised that such applications do not clearly come within the purview of the Court-fees Act. No fee under the Act should therefore be charged on them.

### Payment of court-fees on applications under section 127 of the Bengal Municipal Act, 1884.

*Ben., Mun., No. 108T—M, of 21-5-1927, to Commr., Chittagong.  
(Copy to other Commrs.)*

I am directed to refer to your letter No. 1867 G., dated the 28th April 1927, asking for a definite ruling on the question raised by the Magistrate of Chittagong whether applications filed by a Municipal officer under section 127 of the Bengal Municipal Act, 1884, for the issue of distress warrants against persons living outside Municipal limits, should be stamped with court-fees or not.

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\*No. 1T.—M., dated the 22nd April 1896.

2. In reply, I am to say that Government are advised that such applications do not come under the purview of the exceptions made in section 19 (XVIII) of the Court-fees Act, 1870. The applications are not, therefore, exempt from the payment of court-fees. The municipalities in your division may be informed accordingly.

**Payment of process fee in addition to a court-fee on an application under section 127 of the Bengal Municipal Act, 1884.**

*Ben., Mun., No. 306T—M. of 18-10-1927, to the Commr., Presidency  
(Copy to other Commrs.)*

I am directed to refer to your letter No. 149 M., dated the 27th August 1927, forwarding with your remarks a copy of a letter from the Magistrate of the 24-Parganas on the question whether in each case, under section 127 of the Bengal Municipal Act, for the recovery of arrear municipal rates by the distress and sale of any moveable property belonging to a defaulter beyond the limits of the municipality there should be a separate formal application to the Magistrate with a court-fee stamp of annas 12 and also a process fee of Re. 1 for the execution of the distress warrant.

2. In reply, I am to say that Government are advised that there should be a separate formal application in each case with a court-fee stamp of annas 12 for the application and a court-fee stamp of Re. 1 for a warrant of attachment.

The municipalities in your Division may be informed accordingly.

**Cancellation of rule 233 of the Municipal Account Rules.**

*Ben. Munpl. Cir. Nos. 1990-1994M. of 13-6-1930, to Commrs.*

I am directed to refer to rule 233 of the model municipal account rules, which requires that all cheques shall bear a stamp of the value of one anna. The stamp duty on cheques having been abolished, no receipts stamp is now required on cheques. The rule has therefore become obsolete and Government have been pleased to cancel it. I am to request that the municipalities in your division may be informed accordingly.

**Use of "Service" and ordinary postage stamps in local board elections.**

*Ben., L. S.-G., order No. 6120 L.-S.G., of 4-8-1936, to Commr.,  
Chittagong.*

I am directed to refer to your letter No. 2565G., dated the 31st May 1935, in which the question has been raised whether "service" or ordinary postage stamps should be used by District Magistrates in connection with local board elections.

It appears from enquiries made on the subject from other Commissioners of Divisions that the practice actually varies in different districts and divisions.

2. I am to observe that the sale-proceeds of postage stamps, both ordinary and "service", are credited to the Central revenues and that the provisions of Subsidiary Rule 21 of the Bengal Financial Rules or of Article 221 of the Civil Account Code do not apply to the use by the District Magistrate in his statutory capacity as District Magistrate of service stamps in correspondence relating to the election of members of local boards. As the use of ordinary postage stamps for such a purpose may possibly lead to abuses, Government are pleased to direct that "service" postage stamps should be uniformly used by all District Magistrates in connection with local board elections and the expenditure met from their contract grants. A separate account of the stamps used for the purpose should, however, be kept and the cost of the stamps actually used recovered from the district board concerned, under rule 52 of Local Self-Government Election Rules, and credited to Government under the head "XXX—Miscellaneous—Miscellaneous."

3. The District Magistrates in your division may be informed accordingly.

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*Memo. Nos. 6121-6124 L. S.-G., of the 4th August 1936.*

Copy forwarded to the Commissioners of the (1) Burdwan, (2) Presidency, (3) Dacca, and (4) Rajshahi Divisions, for information and necessary action, with reference to the correspondence resting with their letters (1) No. 228 L. S.-G., dated the 18th January 1936, (2) No. 796 L. S.-G., dated the 4th April 1936, (3) No. 621 J., dated the 6th February 1936, and (4) No. 350M., dated the 23rd January 1936.

## Stationery.

### Stationery articles and printed forms, how to be obtained by District Boards.

*Ben., Mun. (L.S.-G.), No. 5012 and Cir. No. 25 of 8-12-1887, to Comms.*

On a reference made by the Commissioner of Burdwan as to supply of articles of stationery and printed forms to District Boards from the Government Stationery Office, on payment, the Government decided that the Board should make their own arrangements for their purchase.

## Stores.

### Stores, European, required by District Boards, how to be procured.

*India., C. I., No. 9725—29-86 of 23-10-1908, to Ben.*

I am directed to forward, for information, a copy of a letter from the Government of India in the Finance Department, No. 5796A.,



dated the 13th October 1908, stating that the rules regarding the purchase of stores of European manufacture through the India Office should no longer apply to local funds, which have been placed on the same footing as municipalities in regard to their financial relations with Government by the Finance Department resolution No. 6902A., dated the 19th November 1907.

2. I am to say that the purchase of European stores by the funds in question will remain subject to the conditions mentioned in paragraph 2 of the despatch to the Secretary of State for India, No. 21 (Public Works), dated the 25th April 1887, which was communicated with the Home Department letter No. 1-73-82, dated the 10th May 1888.

*No. 5795A., dated the 13th October 1908, from the Government of India, Finance Department, to the Comptroller and Auditor-General.*

In reply to your letter No. 1934, dated the 7th September 1908, I am directed to say that the Government of India consider that the rules regarding the purchase of stores of European manufacture, through the India Office, should no longer apply to local funds, which have been placed on the same footing as municipalities in regard to their financial relations with Government, by the Finance Department resolution No. 6902A., dated the 19th November 1907.

*Ben., Mun. (L.S.-G.), Cir. No. 3 of 13-1-1909, to Commsr.*

In supersession of all previous orders on the subject of the purchase of European stores in India by District Boards, communicated in the Government circulars noted below, I am directed to forward herewith a copy of the orders of the Government of India, in the Department of Commerce and Industry, No. 9725-39-86, dated the 23rd October 1908, and to say that as district funds constituted under the Bengal Local Self-Government Act, 1885, have now been placed on the same footing as municipal and other excluded local funds, the District Boards are no longer required to indent for such stores through the India Office:—

No. 28 L.S.-G., dated 11th December 1902.

No. 15 T.—M., dated 13th June 1903.

No. 20 L.S.-G., dated 3rd April 1907.

• No. 17 L.S.-G., dated 20th February 1908.

2. I am accordingly to request that the District Boards in your division may be instructed, subject to the reservation in paragraph 2 of the orders of the Government of India quoted above, to make their own arrangements for the supply of such stores in future, without previous reference to Government. Extract paragraph 2 of the Despatch to the Secretary of State for India, No. 21 (Public Works), dated the 25th April 1887, referred to in the orders, enclosed for facility of reference.

*Extract from the Despatch to the Secretary of State No. 21 (Public Works), dated 25th April 1887.*

Paragraph 2.—The matter has received our full and careful consideration, and we are of opinion that Government could not impose upon these bodies any restrictions as to their manner of procuring European stores without assuming a responsibility which it is desirable to avoid or without an amount of interference which might prevent our obtaining for Local Boards the services of non-official gentlemen of standing. We think, therefore, Port Trusts and similar Corporations should be allowed, subject to any control provided by the local laws, to make their own arrangements for the supply of stores, unless they should at any time be expending Government revenues on behalf of Government, or the Government should, in any special case in which it may advance to them funds for particular works, think proper to make a condition the subject.

## . Surveys.

### **Survey of cities and towns to be undertaken by local bodies.**

*India, R. A. No. 11—1901, of 19-9-1906, and Ben., Mun., Cir. No. 16T.M. of 16-10-1906, to Commrs.*

In paragraph 71 of their Report, Part I, the Survey Committee have recommended that work connected with the survey of cities and towns should be entirely excluded from the duties imposed upon the Survey Department, that in all such cases the local bodies concerned should be left to make their own arrangements, and that the Survey Department should not be called upon for either the personnel or the expenditure involved. I am now to say that the Government of India have been pleased to approve of this recommendation. While they are of opinion that it is in the case of many cities and towns, of great importance to the efficiency of the Municipal administration, and to the prevention of encroachments on land owned by the State or reserved for public purposes, that a correct map on a large scale and a record of rights should be prepared, they agree with the Committee that this is a duty which should be imposed upon the survey Department, but should be carried out by the municipalities concerned. Should any municipality desire to employ on such work an experienced surveyor, the Surveyor-General, on receipt of an application from the Local Government, will be prepared to recommend retired Provincial Survey Officers for the duty, but otherwise he will in future have no responsibility in connection with such surveys or in providing funds to meet their cost.

## **Tanks and Wells.**

### **Contribution from municipal funds towards private tanks and wells.**

*Ben., Mun., Not. No. 2260M. with Cir. No. 30-M. of 7-11-1905.*

Contributions made by the Commissioners out of the municipal fund towards the re-excavation, repair, improvement or maintenance

of any private tank or well shall, if the amount of the contribution exceeds one hundred rupees, be subject to confirmation by the District Magistrate, and shall in every case be subject to the condition that the water of such tank or well shall be available for use by the public for domestic purposes and for watering cattle.

### **Excavation of private tanks by District Boards.**

*Ben., Mun (L.S.-G.), Cir. No. 12 of 9-3-1917.*

I am directed to refer to the correspondence resting with your letters noted below regarding agreements entered into between District Boards and owners of private tanks, for the excavation or construction of which a contribution is made from the district fund under section 79 of the Local Self-Government Act:—

Commissioner of the Burdwan Division, No. 554, dated the 7th August 1916.

Commissioner of the Presidency Division, No. 87, dated the 5th August 1916.

Commissioner of the Dacca Division, No. 3601J., dated the 31st July 1916.

Commissioner of the Chittagong Division, No. 4925, dated the 28th July 1916.

Commissioner of the Rajshahi Division, No. 2561, dated the 11th September 1916.

2. From the reports received from different districts, it appears that some District Boards acquire tanks or land for the excavation of tanks or execute agreements with the owners by which some control over the tanks is vested in the Boards, while others execute no agreement or allow the owners to retain proprietary rights. In many districts, the District Boards spend money on tanks and wells without having legal power to reserve them. Under section 90 of the Local Self-Government Act, a District Board may only reserve tanks which are not private property or under the control of Government officers for the supply of water for drinking and culinary purposes. In other words, tanks must be district Board property before they can be reserved under this section, and private tanks can only become District Board property by means of acquisition or a deed of gift. An agreement which merely gives a District Board the control of a tank will not of itself take out of the category of private tanks and allow of its being reserved by the Board.

3. In these circumstances it appears desirable to define clearly what classes of tanks can be reserved under section 90 and dealt with under a by-law framed under section 139. Government are advised that the following three classes of tanks only can be so reserved and form the subject of District Board by-laws, viz.:—

- (i) tanks which are already District Board property;
- (ii) tanks acquired under the Land Acquisition Act or excavated on land so acquired; and

- (iii) tanks given to or acquired by a District Board by a valid deed of gift executed by all the owners and persons having easements therein.

Owing to the difficulty of securing the written consent of all owners and easement-holders, it will probably be found in practice that it is simpler and more efficacious for District Boards to acquire lands for tanks instead of executing agreements.

4. I am to request that the District Boards in your division may be informed accordingly.

### **Maintenance of tube-wells sunk by local bodies in good order.**

*Ben., Mun., L. S.-G., Cir. Nos. 4603-4607 L. S.-G., of 4-8-1937, to Commrs.*

I am directed to address you on the subject to tube-wells sunk by local authorities as a source of drinking water-supply in Bengal.

From information recently collected it appears that a considerable amount of money has been spent in each district in the sinking of tube-wells as a source of water-supply, but that in the majority of cases a large number out of these has gone out of order. Government are advised that this is mainly due to two causes, viz. :—

- (1) employment of faulty and unsound methods of construction, and
- (2) want of proper supervision in maintaining these tube-wells in order.

It is clear, therefore, that much of the money which has been spent on tube-wells has been wasted and Government consider it desirable that such wasteful expenditure out of the district fund or the union fund or loans or grants made by Government should be avoided in the future.

As a step in this direction the Chief Engineer of the Public Health Department has been asked to keep in touch with this activity on the part of district boards and endeavour to prevent unsound methods of sinking tube-wells. In order to enable the Local Government to keep a watch on the boards' activities in regard to tube-wells I am to request you to be so good as to request the district boards in your division to include henceforth a special paragraph in their annual reports dealing with tube-wells under the heading "water-supply", containing the following particulars in a tabular form :—

- (1) Total number of tube-wells sunk during the year under review.
- (2) Description of tube-wells—
  - (i) size of pipe and type of pump used;
  - (ii) type of strainer inserted; and
  - (iii) average depth to which sunk.
- (3) Method of sinking adopted.

(4) If casing pipe has been used, whether it has been left in

(5) Average initial cost of a well.

(6) Method of annual maintenance adopted.

purposes. If not, why?

(7) Average cost of maintenance per year estimated.

(8) Whether the water obtained is generally suitable for drinking purposes. If not, why?

(9) Total number of tube-wells existing at the end of the previous year, i.e., the year previous to that under review.

(10) Total number which (i) became derelict, and (ii) had to be resunk during the year under review.

(11) Average life of tube-wells against item 9.

(12) Average annual cost of maintenance of tube-wells against item 9.

*Memo. No. 4698 L. S.-G., of the 4th August 1937.*

Copy forwarded to the Chief Engineer, Public Health Department, for information and future guidance.

## Taxation.

### **Question whether a municipality can meet the cost of lighting its roads from the general revenues without imposing a lighting rate.**

*Ben. Munpl. letter No. 2543M. of 20-8-1929, to Commr., Burdwan Divn.*

I am directed to acknowledge the receipt of your letter No. 459M., dated the 4th April 1929, in which you ask for the decision of Government on the question whether a municipality can apply its fund under section 69 (I) (ii) of the Bengal Municipal Act to lighting roads in any area within it without having previously extended Part VIII of the Act to that area and imposed a lighting rate in it.

2. In reply I am to say that the question was referred to the Advocate-General who has recorded an opinion that it should be answered in the affirmative. This opinion has been accepted by Government and a copy of it is enclosed for your information.

3. The Accountant-General, Bengal, has been informed.

*Opinion, dated the 30th June 1929, by the Advocate-General, Bengal.*

1. Part VIII of Bengal Municipal Act deals with lighting by gas and section 319 lays down that the part applies to lighting under any system involving the laying of pipes or wires or similar apparatus.

2. It is apparent, therefore, that gas and electricity stand on the same footing.

3. It will be noticed that section 308 deals with any area "whether so already lighted or not," i.e., Part VIII applies to area already lighted with gas.

4. It is clear, therefore, Part VIII may be extended to an area already lighted with gas. This shows that an area may be lighted with gas before Part VIII has been introduced. If no area can be lighted with gas unless Part VIII is introduced how does section 308 provide for areas lighted with gas before the introduction of Part VIII? Similarly section 309 provides for imposition of a rate not exceeding 3 per cent. as to portions already lighted with gas.

5. Under section 308 the place for lighting may be confined to an area whole of which is already lighted with gas. In such a case if there can be no lighting with gas, unless Part VIII had been extended we must assume either (1) Part VIII had already been introduced, and it is going to be introduced once more, or (2) gas lighting was in existence before the introduction of the Act.

6. The first assumption is absurd, and on the second assumption, municipalities can spend municipal funds on gas lighting, although Part VIII has not been introduced.

7. As regards the words "it shall be lawful," the observation made in 5 App. Cases 214, when applied to the situation under discussion, does not lead to the conclusion that no monies can be spent from municipal funds on gas lighting, unless Part VIII has been extended.

8. If the municipality intends to impose the annual rate in pursuance of section 309, they can only do it after complying with section 308, in that case it is their duty to comply with section 308.

9. It will be noticed that under section 86, municipalities can levy an extra tax for lighting rate with the sanction of the Local Government. Whereas under section 309, it is lawful for the Commissioners to impose the tax. There is nothing in the scope or object of the Act which compels us to read the word "lighting" in section 69 as "Lighting other than lighting by gas." If a municipality has sufficient funds to enable it to have gas lighting without imposition of an extra annual rate under section 309, there is nothing in the Act to make it its duty to conform with section 308.

10. If the municipality does not require the extra rate under section 309, there seems to be no object in complying with section 308.

11. If a municipality which is maintaining gas lighting from municipal funds later on finds that more money is wanted and an imposition under section 309 has become necessary, there is nothing to prevent introduction of Chapter VIII at this later stage, because, as already pointed out under section 308, Chapter VIII may be introduced to apply to an area already lighted with gas.

12. In my opinion it is not a sound contention that because on introduction of Chapter VIII a municipality can impose an extra rate, therefore, powers given to it by the clear language of section 69 are to be cut down, remembering that the municipality is not imposing an extra rate and is prepared to pay for lighting by gas or electricity out of municipal funds.

13. In my view the question should be answered in the affirmative, and there is no obligation on any municipality to impose the extra rate under section 309, where it can afford to do without it, nor is there any justification for restricting the plain meaning of "lighting" in section 69 by the supposed considerations arising out of Chapter VIII and sections 308 and 309 thereof.

### **Imposition of personal tax on persons occupying holdings.**

*Ben., Mun., Cir No. 6953M., of 12-12-1933, to Commr., Dacca.*

I am directed to refer to your memoranda noted below on the question whether the commissioners of a municipality, where a tax on persons is still levied, can, under the provisions of the Bengal Municipal Act, 1884, impose, even now, such a tax, on persons who are in occupation of holdings constructed or occupied after the commencement of the new Act of 1932, or whether the holdings of such persons should be assessed according to the provisions of the new Act, pending a general revision of assessment:—

- (1) No. 3699J., dated the 25th July 1933.
- (2) No. 3761J., dated the 28th July 1933.

2. In reply, I am to say that Government are advised that if the persons concerned are already paying the personal tax, imposed in accordance with the provisions of the old Act, they should continue to pay this tax under the assessment made under that Act, until a new assessment has been made in respect of rate on holdings under the new Act. If, however, any new persons have come to reside in the municipality whose names are not included in the old assessment list, it would be illegal to make them pay a tax on persons under the old Act and it would be necessary to defer their taxation until the assessment has been revised and a rate on holdings imposed under the new Act.

3. The municipalities concerned may be informed accordingly.

*Memo. Nos. 6954-6957M., of the 12th December, 1933.*

Copy forwarded to all Commissioners of Divisions (except Dacca) for information.

### **Legality of tax on professions, trades and callings within a municipal limit.**

*Ben., Mun., Cir. No. 1025M. of 6-3-1934, to Commr., Burdwan.*

I am directed to refer to your letter No. 2071M., dated the 23rd November 1933, regarding the legality of the imposition, under section 123 (1) (f) of the Bengal Municipal Act, 1932, of a tax on trades, professions and callings as specified in schedule IV of that Act, on certain mills within the Bally Municipality.

2. In reply, I am to say that Government are advised that having regard to the language of section 123 (I) (f) it is clear that the authority of the municipal commissioners to tax trades, professions and callings is limited to those trades, professions and callings which are mentioned in schedule IV of the Act. With regard to the items which appear in this schedule, the mills in question can only come under item 1. Whether or not these mills transact business within the municipality is a question of fact to be determined in each individual case. If they merely manufacture articles within the municipal limits, they are not transacting business within the municipality for profit, as in such cases the transactions for profit, viz., the sales to purchasers, would be undertaken by the head office of the companies concerned in Calcutta or elsewhere. If, on the other hand, the goods are manufactured and the sale of the goods is arranged by the authorities of the mills concerned within the limits of the municipality, they would then be transacting business for profit within the municipality and would come within the purview of item 1 of schedule IV. I am to say that Government agree with the above opinion and to request that the municipal commissioners of Bally may be informed accordingly.

### **Liability of mills and industrial works to taxation.**

*Ben., Mun., Cir. No. 5053M., of 3-11-1934, to Commr., Presidency.*

I am directed to refer to your letter No. 695M., dated the 16th April 1934, in which you ask for instructions of Government on the question of liability of mills and industrial works, situated in municipal areas, to be taxed under section 123 (I) (f) of the Bengal Municipal Act, 1932. You also enquire whether payment by the managing agency of a license fee in Calcutta would exempt the mill or works from the liability to pay the license fee under section 123 (I) (f) to the municipality where it is situated, and whether the engineers employed in such works are also liable to pay the fees under this section.

2. In reply, I am to enclose herewith, for your information, a copy of this department letter No. 1025M., dated the 6th March 1934, to the Commissioner of the Burdwan Division, laying down the principle in regard to the imposition of the tax on trades, professions and callings on mills situated in municipal areas.

3. Government are advised that the payment of a license fee in Calcutta under section 175 of the Calcutta Municipal Act, 1923, does not exempt the mill or works from liability to be taxed under section 123 (I) (f) of the Bengal Municipal Act, if such mill or works carry on trade or transact business within the municipality. Government are further advised that the engineers employed as servants in the mills or industrial works are not liable to the payment of any license fee under section 123 (I) (f), as such engineers cannot be said to exercise any trade, profession or calling.

4. I am to say that Government agree with the above opinion and to request that the municipalities in your division may be informed accordingly.



*Memo. Nos. 5054-5057M., of the 3rd November 1934.*

Copy, with a copy of the enclosure, forwarded to all Commissioners of Divisions (except Presidency), for information and communication to the municipalities in their divisions.

**Liability of mills in municipal areas to taxations on trades, professions and callings.**

*Ben., Mun., Cir Nos. 4540-4543M., of 30-7-1935, to Commrs. except Burdwan.*

I am directed to refer to Government circular Nos. 5053-5057M., dated the 31st November 1934, forwarding a copy of this department letter No. 1025M., dated the 6th March 1934, to the Commissioner of the Burdwan Division on the subject to the liability of mills situated in municipal areas to pay the tax on "trades, professions and callings" under section 123 (1) (f) of the Bengal Municipal Act, 1932, for "transacting business within the municipality for profit" as defined in Schedule IV of the Act. It was stated in this letter that Government were advised that whether or not these mills transacted business within the municipality was a question of fact to be determined in each individual case; if they merely manufactured articles within the limits of a municipality, they were not transacting business within the municipality for profit, as in such cases the transactions for profit, viz., the sales to purchasers would be undertaken by the head office of the companies concerned in Calcutta; if, on the other hand, the goods were manufactured and the sale of the goods was arranged by the authorities of the mills concerned within the limits of the municipality, they would then be transacting business for profit within the municipality and would come within the purview of item 1 of Schedule IV.

2. I am to say that Government have recently had occasion to re-examine the position and have taken fresh legal opinion in the matter. They are now advised that item 1 of Schedule IV of the Bengal Municipal Act contemplates that any company owning a mill or factory, within the limits of the municipality, for the manufacture of its merchandise, is liable to have a tax imposed on it whether the articles manufactured are sold within the limits of the municipality or not. The words "transacting business" are very wide in their import and do not mean merely the business of selling goods. "Transacting business for profit" in Schedule IV ought to be read with reference to section 123 (1) (f) of the Act and to be taken to mean the exercise of any trade, profession or calling with a view to profit. The word "trade" in section 123 (1) (f) covers commercial occupations or undertakings generally. Companies, owning mills or factories, may be said to be engaged in the trade of manufacturing and selling of the articles they produce. They may likewise be said to be engaged in the calling of a manufacturer and selling of such products. Government are advised that, even though the selling of the goods be effected outside the jurisdiction of the municipalities, these companies can certainly be said to be carrying on a part of their trade or calling, or transacting

business for profit within the municipality. Government are further advised that items 2, 3 and 4 in Schedule IV were not intended to contemplate that persons, other than companies, owning mills and factories, would not be liable to be taxed under section 123 (1) (f). The word "merchant" or "trader" in these items would include such persons.

3. I am to say that the Government of Bengal (Ministry of Local Self-Government) agree with the above opinion of their legal advisers and are pleased to direct that the Government order No. 1025M., dated the 6th March 1934, should be deemed as cancelled and substituted by the present circular. I am to request that the municipalities in your division may be informed accordingly.

*Memo. No. 4544M., dated the 30th July 1935.*

Copy forwarded to the Commissioner of the Burdwan Division for information, with reference to the correspondence resting with his memorandum No. 1759M., dated the 14th September 1934.

**Determination of the class of ownership of the holdings within the municipality for purposes of section 129 (b) of the Bengal Municipal Act, 1932.**

*Beng. Mun., order No. 555M., of 19-1-1935, to Commr., Burdwan.*

I am directed to refer to your memorandum No. 1718M., dated the 10th September 1934, in which you ask for orders of Government on certain legal points in connection with the resolution passed by the commissioner of the Tamruk municipality under section 129 (b) of the Bengal Municipal Act, 1932, with a view to determining what class of ownership shall be accepted as a test for determining whether lands within the municipality are held under one title or agreement.

2. In reply, I am to say that Government have taken legal opinion in the matter and are adviser as follows:—

It seems to have been assumed that section 129 (b) of the Bengal Municipal Act, 1932, has been enacted for the purpose of determining the class of owners who will be made liable for taxes as owners. This appears to be the view of the Government Pleader of Hooghly. This view is not, however, correct. The expression "holding" is defined in section 3 (21) of the Act as meaning land held under one title or agreement and surrounded by one set of boundaries. The definition is substantially the same as that contained in the Bengal Municipal Act, 1884. Naturally difficult questions may arise as to what particular class of land within the boundaries of a municipality actually constitutes a holding or holdings and these questions may be of importance with reference to the assessment. Section 129 (b) does no more than confer upon the commissioners at a meeting the power to say that a particular class of ownership is necessary for constituting a holding, provided the holding in question is under one title or agreement and within one set of boundaries as prescribed by section 3 (21) of the Act.

A provision of this sort is necessary in order to give the commissioner authority to determine what are and what are not holdings within the meaning of the Act because the holding is the principal basis for assessment in respect of municipal rates.

Once the holding have been determined, different considerations apply. For instance, section 132 refers to rates assessed on the annual value of holdings. These rates are payable by the owners of the holding. The commissioners have no power to say who shall be deemed to be the owner of the holding for the purpose of assessment under section 132. Section 129 (b) only has reference to the questions relating to the nature of the holdings as defined in section 3 (21) of the Act.

The question, therefore, arises as to the meaning of the expression "owner of the holding" who is the person liable to pay rates assessed under section 132 of the Act. It must be observed that this expression is much more restricted in its scope than, for instance, the expression "owner of the land which constitutes the holding" would be. Many holdings may be constituted within a block of land in respect of which a particular zamindar is ultimately entitled to receive some rent but the expression 'holding' is an artificial term created by section 3 (21) of the Bengal Municipal Act. If this section is read with section 132 it would appear to follow that the owner of the holding must be a person under whom the occupier holds the land under one title or agreement if much holding has been let out to a tenant. If the holding has not been let out to a tenant but could be so let out, the owner of the holding would be the person who holds the land in question under one legal title which would enable him to let the land. The principles laid down by the High Court in the case of Syed Shah Hamid Hossain *versus* Patna Municipality, XVH C. W. Notes, page 812, still hold good. In that case the Judges held:—

(1) In our opinion, there is no room for reasonable controversy that the basis of a 'holding' is occupation, and the term "holding" is used with reference to land by an occupier under one title and surrounded by one set of boundaries.

(2) That provisions of the Municipal Act, in our opinion, make it reasonably plain that the basis of the assessment of rates is occupation. We are concerned primarily with land as occupied by a person; the land in the occupation of such a person, if held under one title and comprised within one set of boundaries, constitutes a holding for the purposes of the Bengal Municipal Act."

The Hon'ble Judges further held that, wherever there is an intermediate interest between the owner and the occupier, such an intermediate holder and not the ultimate owner is the person liable to pay rates, i.e., such rates become payable by the owner, that is to say the person above the occupier if the occupier is not the owner.

3. In view of the considerations set forth above, Government are advised:—

- (i) that the resolution of the Tamluk municipality, although its language is by no means clear, is *ultra vires* as it goes beyond the scope of section 129 (b) of the Bengal Municipal Act, 1932, the intention, as appears from the Chairman's letter, dated the 4th August 1934, forwarded with your memorandum under reference, being to settle the class of owners upon whom municipal rates should be assessed;

- (ii) that the contention made in paragraph 7 of the plaint that the effect of the resolution is to shift the liability to pay the tax under section 132 from the owners to the occupiers [vide definitions of these terms in sub-section (36) and (38) of section 3 of the Act] is correct; and
- (iii) that it cannot be said that the decision of the municipal commissioners in question is final and it can certainly be challenged in the civil court.

4. I am to say that Government of Bengal (Ministry of Local Self-Government) accept the above opinion. The municipal commissioner may be informed accordingly.

### **Levy of municipal rates on large properties.**

*Beng. Mun. Ctr. Nos. 1550-1554 M. of 10-3-1936.*

It has been brought to the notice of Government that in calculating the amount of a particular rate or rates to be levied on large properties, the commissioners of certain municipalities do not follow correctly the procedure laid down in section of the Bengal Municipal Act, 1932, read with the proviso to section 128 (2) and that the assessors usually calculate the annual value of such properties, under section 128 (2), at the maximum percentage allowable, i.e., at  $7\frac{1}{2}$  per cent. on the value of the building or buildings on the holding.

2. I am accordingly to explain that in imposing any rate or rates under section 135 on any large property, if the value of the buildings on the holding exceeds one lakh of rupees and the gross annual rental cannot be easily ascertained, the municipal commissioners should first ascertain the annual value of the holding in the manner laid down in section 128 (2), i.e., at a percentage not exceeding  $7\frac{1}{2}$  per centum on the present value (i.e., cost) of the building or buildings on the holding plus a reasonable ground rent. The percentage for calculating the annual value need not necessarily be fixed at the maximum rate allowable, i.e.,  $7\frac{1}{2}$  per cent. but may be fixed at a lower rate in accordance with the circumstances of each case. When the annual value has thus been ascertained and it has been determined under section 135, at what percentage of the annual value a particular rate should be imposed, the commissioners should, under the proviso to section 128 (2), first calculate the amount of the particular rate on the ground rent, which is a part of the total annual value of the holding at the percentage fixed and then on the annual value of the first lakh of rupees of the value (or cost) of the building or buildings on the holding at the percentage fixed. On the annual value of the remaining portion of the value (or cost) of the building or buildings on the holding, the amount of the rate should be calculated at one-fourth of the percentage fixed as laid down in the proviso to section 128 (2). The total amount thus obtained will be the amount of the particular rate on the holding in question. The following illustration will make the position clear:—

Suppose—

	Rs.
The value of building or buildings on a holding is ...	10,00,000
The ground rent land composed in the holding ...	5,000
and the conservancy rate to be levied is fixed at 5 per cent. of the annual value—the annual value being worked out at 5 per cent. of the value of the building or buildings.	

	Rs.
Then annual value of the first lakh of the value of buildings at 5 per cent. ...	5,000
The annual value of the remaining 9 lakhs of buildings at 5 per cent. ...	45,000
Ground rent ...	5,000
Total annual value of the holding ...	<u>55,000</u>

The conservancy rate at 5 per cent. will be:—

	Rs.	a.
(1) On the ground rent of Rs. 5,000 at 5 per cent.	250	0
(2) On the value of the building or buildings—		
(a) On the annual value of the first lakh, i.e., at 5 per cent. on Rs. 5,000 ...	250	0
(b) On the annual value of the remaining 9 lakhs, i.e., at $\frac{1}{4}$ of 5 per cent. on Rs. 45,000 ...	562	8
Total conservancy rate ...	1,062	8

3. I am to request that with a view to remove any possibility of misunderstanding the municipal commissioners in your division may be requested to follow the above procedure.

#### **Procedure in determining the annual value of large properties.**

*Ben., Mun., Ctr., Nos. 4259-4262M., of 8-7-1937, to Commissioners (except Presidency).*

I am directed to refer to Government circular Nos. 1550-1554M., dated the 10th March 1936, explaining the procedure to be followed in determining the annual value of large properties under section 128(2) of the Bengal Municipal Act, 1932, and in assessing the same to particular municipal rate or rates. It appears that the use of the words "i.e., cost" and "or cost" within brackets in certain places of the circular has given rise to misunderstanding as to whether the valuation as a basis of taxation is to be made on the value or market value of the building or buildings or on the cost of construction thereof.

2. I am accordingly to explain that the word "cost" was used in the circular as synonymous with the words "market value". Since, however, the word or the words used in brackets are liable to misinterpretation, they should be considered as deleted.

3. I am to add that Government are advised that the words "value of the building or buildings on such holdings" in section 128(2) of the Bengal Municipal Act, 1932, should be interpreted to mean "the market value of the building or buildings on the holding" and not the "cost of construction" thereof.

4. The municipal commissioners in your division may be informed accordingly.

*Memo. No. 4263M. of the 8th July 1937.*

Copy forwarded to the Commissioner of the Presidency Division for information and necessary action with reference to his memorandum No. 495M., dated the 6th April 1937.

### **Levy of lighting rate for lighting a portion of the Rishra-Konnagar Municipality.**

*Ben., Mun., order No. 567M. of 3-2-1937, to Comm., Burdwan.*

I am directed to refer to Government order No. 4768M., dated the 1st June 1936, conveying the approval of Government under proviso (ii) to clause (a) of sub-section (1) of section 125 of the Bengal Municipal Act, 1932, to the proposal for lighting a portion of the Rishra-Konnagar municipality with electricity and explaining the circumstances under which the approval had to be given under the proviso referred to above instead of under clause (a) of section 125 (1) and the necessity for amending the rules framed under section 215 (c) which were published with notification No. 135M., dated the 12th January 1934.

2. Certain difficulties were, however, experienced in amending the rules under section 215 (c) prescribing the conditions and limitations under which a lighting rate may be imposed under the proviso to clause (a) of sub-section (1) of section 125. The matter was, therefore, further examined by Government. Government are now advised that clause (a) of sub-section (1) of section 125 is not confined merely to a scheme of works to be constructed or carried out by the municipal commissioners themselves. But the scope of this clause comprises within its ambit all schemes of lighting, involving the laying of pipes, wires, cables, etc., whether constructed or maintained by the municipality or through some outside agency such as an electric supply company. The proviso to this clause, on a proper reading of it, refers only to a scheme of lighting not involving the laying of pipes, wires, cables, etc., as mentioned in section 125 (1) (a) and, therefore, excludes lighting by gas or electricity.

3. Government are further advised that where the scheme of works is an undertaking of the municipal commissioners themselves, the rules framed under section 311 would apply. Where the scheme of

lighting is founded upon a contract with an outside agency, it is still necessary that it should receive the sanction of the Local Government, to bring the case within section 125 (1) and to enable the municipal commissioners to levy the lighting rate as provided in clause (c) of section 125 (1).

4. I am to say that the Government of Bengal (Ministry of Local Self-Government) entirely agree with the above opinion and, in Government order No. 4768M., dated the 1st June 1936, (a) of sub-section (1) of section (1) of section 125, the proposal for lighting a portion of the Rishra-Konnagar municipality with electricity.

5. I am to add that in view of position explained above Government do not consider it necessary to amend the rules framed under section 215 (c) which were published with notification No. 135M., dated the 12th January 1934, and that in regard to schemes of lighting by gas or electricity, the municipal commissioners will, on receipt of the sanction of Government under section 125 (1) (a), be competent to levy the lighting rate subject to the maximum prescribed by clause (c) of section 125 (1).

The commissioners of the Rishra-Konnagar and other municipalities in your division may be informed accordingly.

*Memo. Nos. 568-71M. of the 3rd February 1937.*

Copy forwarded to all Commissioners of Divisions (except Burdwan) in continuation of this department endorsement Nos. 4769-4772M., dated the 1st June 1936, for information and communication to the municipal commissioners in their respective divisions.

## Tenders.

### Forms of tender for use by Municipalities.

*Ben., Mun., No. 141T.M. and Cir. No. 6T.M. of 16-6-1898, to Board and to Commrs.*

With reference to your letter No. 146B., dated the 19th February 1898, I am now directed to say that it has been decided that the same forms of tender as are in use in the case of District Boards shall be used by municipalities in Bengal. The forms to be kept in stock in the Stationery Office should therefore be printed in such a manner as to admit of their use both by municipalities and District Boards. I am to request that the Superintendent of Stationery may be informed accordingly.

2. I am to take this opportunity of pointing out that the orders contained in the Public Works Department letter No. 2390, dated the 19th June 1889, referred to in paragraph 2 of your letter, which prescribed five forms of tender by District Boards, have since been modified by the orders contained in that Department circular No. 541 B.C. dated 31st January 1893, a copy of which is forwarded

for the information of the Board. It will be seen that the later orders prescribed an alternative form for Form No. 1 and modify Forms Nos. 2 and 3. Revised forms should accordingly be kept in stock in the Stationery Office, together with both the alternative forms for Form No. 1.

## Transfers.

### Transfer of officers from the service of one District Board or District Road Committee to another.

*Ben., Mun., No. 290T.M. and Cir. No. 12T.M. of 84-1896, to A.-G., B., and to Commsr.*

I am directed to acknowledge the receipt of your letter No. 555L.A., dated the 27th February 1896, in which you refer, for the orders of Government, the question whether the transfer of officers from the service of one District Board or District Road Committee to another gives them a claim to joining time allowances under Chapter IX of the Civil Service Regulations, and to travelling allowances under article 1203, or whether such transfers should be considered as involving resignation of the original appointment and re-appointment in another post. If Government decide to recognise such transfers as made under Chapter IX of the Civil Service Regulations, you suggest that each transfer of this nature should be formally sanctioned by Government, or, if the two districts are in the same Division, by the Commissioner of that Division. This seems to you to be necessary in order to determine whether the transfer was made on public grounds or not.

2. In reply, I am directed to say that officers serving under District Boards or District Road Committees are divided into four classes:—

- (a) officers whose services have been lent by Government to Local Authorities;
- (b) officers who have been transferred from pensionable service under Government;
- (c) officers who have been transferred from pensionable service under the late Road Cess Committee;
- (d) officers whose whole service has been rendered under Local Authorities, and who come under the rules for the management of a Provident fund.

3. The transfer of officers in class (a) from one Local Authority to another can only be made by Government. These officers should therefore receive pay and travelling allowance during joining time, and such amounts should be a charge on the Local Authority whose service they join.

4. As Government accepts all duly authorized pensionary charges of the officers in class (b), such officers should also be transferred under the orders of Government, or, in the case of Sub-Inspectors of Schools



and of teachers in High Schools transferred to Joint Committees, by the Director of Public Instruction. So long as their transfer is made *bonâ fide* in the interests of the public service and not for their individual advantage, or as a punishment, they should be allowed pay and travelling allowance, during transit from one appointment to another, at the cost of the Board whose service they join, and the time occupied in transit should count towards pension. If re-transferred from service under District or other Local Boards to Government, the allowances will, under the orders of the Government of India in the Home Department, No. 28, dated the 18th January 1893, be borne by Government.

5. The service of officers in class (c) qualifies for pension under the rules made under section 35 of Act III of 1885, and the charge for their pensions for the combined service under the Road Cess Committee and District Board is payable from the District Fund. Transfers of these officers should also be sanctioned by Government, and if the transfer is sanctioned, they should be allowed pay and travelling allowance, during transit from one appointment to another, at the cost of the Board whose service they join, and the time occupied in transit within the limits admissible under the Civil Service Regulations should count as service for pension.

6. (d) The case of employees whose whole service has been rendered under Local Authorities is, however, different. Their appointments cease when they resign the service of the Local Authority, and they have no claim as of right to pay and travelling allowance while joining an appointment under another Local Authority, for they hold no appointment while in transit. When, however, the transfer is made in the interests of the Local Authority, the officers concerned may, with the special sanction of Government, be permitted to draw transit pay and travelling allowance, and to count their past service as qualifying for leave. The pay and allowances (including leave allowances) will be a charge on the Board whose service such officers join, and each case should be submitted to Government for orders, with an explanation of the reasons which render the transfer advisable. In the case of officers belonging to class (c), who are transferred to the service of Government under orders conveyed in Home Department letter No. 386, dated 16th October 1895, for employment as Deputy Inspectors of Schools, transit pay and allowances will be met by Government, and no special sanction will be required.

**Travelling allowance of members of District or Local Boards for attending a conference of members of local bodies convened by private arrangement.**

*Ben., L. S.-G., Nos. 2647-2657 L. S.-G. of 1-9-1926, to Comms.*

I am directed to draw your attention to the wording of section 53, sixthly (c) of the Bengal Local Self-Government Act of 1885, which states that the District Fund shall be applicable to the payment in such cases, if any, as the Governor in Council may direct, of travelling expenses incurred by members of the District Board or any Local Board in performing journeys for carrying out other objects of this Act.

Government are advised that, to make such payments lawful, orders have to be issued beforehand either in the form of a circular or in the form of a specific sanction for the particular case. It sometimes happens that members of District or Local Boards in Bengal attend conferences of local bodies convened by private arrangement for discussion of matters affecting Local Self-Government; and the question arises whether their travelling expenses can be paid from the District Fund. Government are advised that provided the expense is kept within reasonable limits and the discussions are really useful, the journey so performed may be regarded as being "for the purpose of carrying out other objects of the Act," and that subject to Government sanction travelling expenses may be paid from the District Fund.

2. The Government of Bihar and Orissa have issued a general order under the provisions of the corresponding Act in Bihar directing that travelling allowances for journeys to attend conferences of local bodies convened by private arrangement may be paid out of the District Fund provided that in each case the payment is restricted to one member only of each Board.

3. I am to say that the Governor in Council thinks that a general sanction in these terms hardly provides sufficient safeguard against abuse. To take an absurd and extreme instance, it would be preposterous to pay out of the District Fund the travelling allowance of a Local Board member who went to attend a conference in New Zealand. In a recent instance Government refused to approve of payment from the District Fund of the travelling allowance of a Local Board member from the Chittagong Division who attended a conference held at Cawnpore.

4. His Excellency in Council accordingly directs that when it is proposed to pay travelling allowance from a District Fund to a member of a District or Local Board for attending a conference of members of local bodies convened by private arrangement, application should be made to the Commissioner of the Division for sanction beforehand and payment should not be made unless he considers that the charge on the District Fund would be a reasonable one and gives his assent.

This order of Government may be communicated to the District and Local Boards in your Division.

## Travelling Allowance.

### Travelling charges of District Engineers for journeys undertaken for double purposes.

*Ben., Mun. (L.S.-G.), No. 1141 and Cir. No. 8 of 19-3-1901 to Commsr.*

The Bengal Government ruled that in cases of journeys performed by District Engineers for the double purpose of inspecting the works of Khas Mahals and District Boards, their travelling charges should be divided in equal proportions between Government and the District Boards.

**Commissioners are controlling officers for travelling allowance bills of non-official Chairmen, District Boards.**

*Ben., L.S.-G., No. 636-640T.—L.S.-G. of 28-10-1920, to Commrs.*

I am directed to refer to this Department Circular No. 361-65-L.S.-G., dated the 13th February 1918, regarding the payment of travelling allowance at first class rates to non-official Chairmen of District Boards, and to say that the Commissioners of Divisions shall be regarded as controlling officers for the purpose of passing bills for travelling allowances drawn by them.

**Officials and staff of District and Local Boards to be paid travelling allowances under the Subsidiary Rules.**

*Ben., L.S.-G., Nos. 250-54 L.S.-G., of 12-11-1925, to Commrs.*

I am directed to refer to Local Self-Government Account Rule 118 under which Chairmen and Vice-Chairmen of District Boards are entitled to draw from the District Funds travelling allowance at the same rates as are admissible to a Government officer of the first class under the Civil Service Regulations. The question has been raised whether the travelling allowance to those officers should continue to be paid under the Civil Service Regulations or should be paid according to the reduced rates introduced by Finance Department resolution No. 11733F., dated the 13th December 1923.

2. I am to state that the part of the Civil Service Regulations relating to travelling allowance has been superseded by Subsidiary Rules prescribed by the Local Government under the Fundamental Rules, which in their turn have been amended by the Finance Department resolution referred to above. On the analogy of section 10 of the Bengal General Clauses Act these amended rules should be taken as having replaced the old travelling allowance rules of the Civil Service Regulations referred to in Account Rule 118. I am, therefore, to request that the District Boards in your Division may be instructed to grant the travelling allowance of their Chairmen and Vice-Chairmen according to the reduced rates introduced by the Finance Department resolution, dated the 13th December 1923. I am also to add that the above orders apply also to Chairmen and Vice-Chairmen of Local Boards as well as to the members and employees of District and Local Boards; but under rule 115 (f) the District Engineers will continue to be treated as first class officers for the purpose of travelling allowance irrespective of their pay. The Account Rules are being amended to bring them into line with these orders (*vide* notification No. 156-L.S.-G., dated the 15th January 1925).

**Payment of travelling allowance of Government officers deputed to conduct the election of members of local bodies.**

• *Ben., L.S.-G., Nos. 2141-45 L.S.-G., of 3-7-1925, to Commrs.*

I am directed to address you on the subject of the payment of travelling allowance of Government officers deputed to conduct the election of members of local bodies.

2. In Mr. Shirres' letter No. 747, dated the 6th March 1888, which has been cited in the footnote to rule 31 of the Municipal Election Rules published at pages 379-80 of Pargitter's Municipal Act (Second Edition), Government accepted the liability to pay the travelling allowance of Government officers conducting the municipal elections from provincial revenues. In Mr. McIntosh's letter No. 982-L.S.-G., dated the 17th March 1893, a copy of which was forwarded with this department memorandum Nos. 682-85 L.S.-G., dated the 13th March 1917, it was decided that the travelling allowance of gazetted officers of Government deputed to conduct the election of members of Local Boards was payable by Government. Subsequently in this department circular Nos. 844-48 L.S.-G., dated the 17th March 1920, it was ordered that the travelling allowance of all Government officers conducting the election of members of Union Committees should be paid by Government. Similar orders were issued in regard to the election of members of Union Boards (*vide* Government order No. 1106 L.S.-G., dated the 27th March 1923, to the Commissioner of the Presidency Division, a copy of which was circulated with memorandum Nos. 1107-111 L.S.-G., of the same date). On the other hand, rules 38, 52 and 29 of the Election Rules framed under the Bengal Municipal, Local Self-Government and Village Self-Government Acts, respectively, lay down that all costs incurred in the holding of election or taking any other action in connection therewith should be paid from the respective local funds.

3. A doubt having arisen as to the propriety of the various orders referred to in paragraph 2 above, the matter was referred to the Legal Remembrancer and Government have been advised as follows:—

*As to Municipal elections.*—Under section 69 (1) (xxiii) of the Bengal Municipal Act, the Municipal Commissioners may apply their fund generally to carry out the purposes of the Act—one of which is the holding of elections. Government have the rule-making power under the Act, and in exercise of that power the election rules have been framed which result in expenses being incurred. As the Act does not restrict payments out of the municipal fund to payments incurred by the Commissioners that fund may rightly be used to meet the travelling expenses of Government officers conducting municipal elections.

*As to Local Board and Union Committee elections.*—The rules framed under the Local Self-Government Act, in connection with these elections put certain duties on District Magistrates which involve expenses. But under section 53 fifthly (a) (iii) of the Act, the District Fund can only be used for expenses incurred by District Boards for the performance of duties imposed on them. As the duties in connection with the election of members of Local Boards and Union Committees are imposed on Magistrates, the travelling expenses of Government officers conducting such elections should be paid by Government.

*As to Union Board elections.*—The Union Board can spend money to meet the cost of elections which are one of the purposes of the Act, but as the rules framed under section 101 of the Village Self-Government Act impose the duties in connection with elections on Government servants, Government should meet the expenditure involved in such duties, as section 37 (b) of the Act restricts the use of the union fund to meet the expenses of the Boards and not of others. The travelling allowance of Government officers conducting Union Board elections should, therefore, be paid from provincial revenues.

4. The Governor in Council accepts the opinion of the Legal Remembrancer, and I am to request that local bodies in your division may be informed accordingly.

**Reduction of the rates of travelling allowance granted by District and Local Boards.**

*Ben., L.S.-G., Cir., Nos. 1868-1872 L.S.-G., of 11-5-1937, to Commrs. (except Dacca).*

In continuation of this department circular Nos. 250-54 L.S.-G., dated the 22nd January 1925, I am directed to forward here with a copy of Finance Department Resolution No. 1183 F., dated the 13th March 1931, amending sub-rule 42 under Fundamental Rule 44, so as to reduce the rates of travelling allowance and to request that the grant of travelling allowance by District and Local Boards in your division, to their Chairman and Vice-Chairman as well as members and employees, may be regulated accordingly.

**Travelling allowance payable to Presidents and Vice-Presidents of union boards.**

*Ben., L.S.-G., Cir., Nos. 1784-1788 L.S.-G., of 9-4-1932, to Commrs.*

In Mr. O'Malley's circular Nos. 40-44 T.—L.S.-G., dated the 25th June 1920, it was laid down *inter alia* that travelling allowance may be paid out of union funds to Presidents of union boards for journey performed by them outside the union provided that its payment was sanctioned in each case by the Divisional Commissioner. It has been brought to the notice of Government that sometimes Vice-Presidents are also required to perform journeys outside the union for carrying out the objects of the Village Self-Government Act. The Government of Bengal (Ministry of Local Self-Government) have therefore decided that Vice-Presidents should be regarded as in the same position as Presidents in this respect and that—

(i) no travelling allowance shall be allowed to Presidents and Vice-Presidents of union boards for journeys performed by them within the union;

(ii) travelling allowance may, however, be allowed for journeys performed by them outside the union at the same rate as is admissible under the Fundamental Rules to second class officers, provided that its payment is sanctioned in each case by you.

2. I am to add that both in the case of the Presidents and Vice-Presidents such payment should only come up for the sanction of the Divisional Commissioner when supported by a specific resolution of the union board accepting the charge on the occasion in question.

3. I am to request that union boards in your division may be informed accordingly.

**Travelling allowance of non-officials deputed to preside at local board and union committee elections.**

*Ben., L.S.-G., Nos. 1069-1073 L.S.-G. of 13-2-1933, to Commrs.*

In continuation of Government order Nos. 2141-2145 L.S.-G., dated the 3rd July 1925, I am directed to say that the travelling allowance of non-officials, deputed by District Magistrates to preside at the election of members of local boards, union committees and union boards, should be paid from provincial revenues. I am to request that the local bodies concerned may be informed accordingly.

2. The Accountant-General, Bengal has been informed.

**Travelling allowance payable to a Circle Officer attending a Civil Court as a witness on behalf of an union board.**

*Ben., L.S.-G., Cir. Nos. 5345-5349 L.S.-G. of 12-9-1934, to Commrs.*

I am directed to say that a case has recently occurred in which Government were asked to meet the expenses in connection with the travelling allowance of a Circle Officer who was required to attend a civil court as a witness on behalf of a defendant union board. So little details were furnished in that case that it was hardly possible to adjudicate whether this case was strictly a liability of Government in accordance with the principles laid down in paragraphs 3 and 4 of this department circular Nos. 64-68 T.—L.S.-G., dated the 13th September 1930. I am to request that in order to enable Government to come to a decision in such cases you will be so good as to impress upon the District Magistrates in your division that in submitting proposals for financial assistance by Government in future they should invariably furnish full particulars of the case, with reasons for their recommendation in the light of the circular order quoted above.

**Power of sanctioning travelling allowance to Presidents and Vice-Presidents of union boards for journeys outside the union.**

*Ben., L.S.G., Cir. Nos. 4016-4020 L.S.-G. of 1-5-1930, to Commrs.*

I am directed to refer to this department circular Nos. 40-44 T.—L.S.-G., dated the 25th June 1920, and Nos. 1784-1788 L.S.-G., dated the 9th April 1932, in which it was laid down *inter alia* that travelling allowance might be paid out of union funds to presidents and vice-presidents of union boards for journeys performed by them outside the union, provided that its payment was supported by a specific resolution of the union board accepting the charge on the occasion in question and was sanctioned in each case by the Commissioner of the Division. I am to say that Government have, on the recommendation of the Conference of Divisional Commissioners held at Darjeeling in 1935, decided that the power of sanctioning the travelling allowance of presidents and vice-presidents of union boards in such cases should henceforth be transferred to the District Magistrates.

2. I am to request that the union boards in your division may be informed accordingly.

*Memo. No. 4021 L.S.-G. of the 1st May 1936.*

Copy forwarded to the Accountant-General, Bengal, for information, in continuation of this department memorandum No. 1789-L.S.-G., dated the 9th April 1932.

## **Trust Funds.**

### **Audit of Trust Funds by Examiner of Local Accounts.**

*Ben., Mun., Cir. No. 1 of 5-1-1884, to Commrs.*

The Bengal Government directed that a copy of the Audit Report of the Examiner of Local Accounts as to Trust Funds should be sent promptly to the administrators of the funds, but that no report should be submitted either to the Divisional Commissioners or to Government, unless the circumstances are such that in the opinion of the Accountant-General it is necessary to send copies, or unless the Commissioners or Government specially ask for them.

## **Union Boards.**

### **Policy of District and Local Boards in the matter of delegation of duties and making grants-in-aid to Union Boards.**

*Ben., L.S.-G., Nos. 1-5 L.S.-G., of 3-1-1927, to Commrs.*

I am directed to address you on the subject of the policy which, in the opinion of the Governor in Council, District Boards and Local Boards should adopt towards Union Boards with regard to the delegation of duties and the disbursement of grants-in-aid.

2. The terms of section 33 of the Village Self-Government Act which empower the District or Local Board to make over to a Union Board the management of any institution or the execution of any work or duty within the area over which the Union Board has control are very wide. Not only may the superior Board request the Union Board to carry out a specified work on its behalf, but it may make over to the Union Board for upkeep an existing work or institution, such as a village road. To judge from the resolutions passed at conferences of Union Board members held in various districts of Bengal His Excellency in Council is of opinion that more use might be made of the powers conferred by this section. Not only the village roads but pounds, small ferries situated entirely within a single Union, and sources of water-supply, such as wells and tanks, might usefully be made over to Union Boards for maintenance. The representatives of the villagers being vitally affected by the way in which such institutions are managed might be expected to devote to them more personal attention than

is given by contractors or by subordinate employees of the district or Local Board. It is expected too that the policy of handing over existing works of the kind mentioned above to village authorities will act as a stimulus even to poor and unenterprising Union Boards, and will encourage them to develop their own resources. Objection is sometimes taken to such decentralization on the ground that District Boards are unable to provide sufficient funds for the upkeep of these minor works. The District Board on the one hand professes inability to supply enough money for proper maintenance and the Union Board on the other grumbles over the smallness of the sums provided. His Excellency in Council, however, considers that District and Local Boards will be fulfilling their obligations under the proviso to section 33, and that Union Boards will have no just grievance if the average amount hitherto spent annually by the superior Board on a particular work is made over to the Union Board each year after transfer of the work to the latter body.

3. As regards grants-in-aid under section 45 of the Village Self-Government Act, I am to point that not only for the encouragement of rural self-government but for the conservation of the resources of District Boards themselves it is highly important that these grants should be judiciously distributed. District Boards constantly complain of lack of funds to enable them to carry out the obligations imposed upon them by law. Every new work executed and every new institution established means a fresh recurring liability, and District Boards as a rule obtain no corresponding increase of income except when after long intervals there is a cess revaluation. What is required is a policy which will enable District Boards to have new works carried out without shouldering fresh burdens. This result may be achieved if a District Board instead of executing new works itself makes grants to Union Boards earmarked for execution of particular projects under the Local Board's supervision. This policy not only stimulates self-help among the villagers but saves the district fund from recurring liabilities. Moreover, money expended in this way is likely to go further than if spent through District Board contractors. It may, for instance, cost a District or Local Board Rs. 500 to sink a masonry well leaving out of account the subsequent expenses of upkeep. A Union Board may, however, be able to get the work done for Rs. 400 and may be able to supplement a District Board grant from the proceeds of local taxation. In this way a sum of Rs. 1,000 disbursed in the form of grants of Rs. 200, each earmarked for improvement of water-supply, may result in the provision of five wells, whereas the same amount spent by the District or Local Board itself could only produce two.

I am to request that the suggestions contained in this letter be communicated to the District Boards of the districts of your division in which there are Union Boards.

#### **Relation between Circle Officers and Chairman of District Boards.**

*Ben., L.S.-G., Nos. 4123-4127 L.S.-G. of 12-11-1927, to Comms.*

I am directed to refer to this Department Circular Nos. 426-430 T.—L.S.-G., dated the 4th October 1926, inviting your views on certain suggestions put forward by Mr. S. G. Hart, I.C.S., with the object



of establishing closer relations between the Chairman of District Boards and Circle Officers. The answers received to this circular have come under the consideration of Government in the Ministry of Local Self-Government, and I am to say that in the light of the opinions furnished by those who were consulted, Government have arrived at the following conclusions.

2. The fact that, as a rule, Subdivisional Officers and Circle Officers are the only effective connecting link between District Boards and Union Boards is recognized, and the desirability of providing that all important information about Union Boards, which is at the disposal of these officers, should be communicated to the Chairman of the District Boards, must be emphasized. It is, however, felt that to a great extent Mr. Hart's specific suggestions are not feasible in practice. In the first place no sort of dual control over Circle Officers—to be exercised by the District Magistrate on the one hand and by the Chairman of the District Board on the other—can be contemplated. Hence no orders can be issued to a Circle Officer by the Chairman of the District Board. Further, it is not desirable to relax the existing restrictions by which the Circle Officers from outlying circles are required to remain within the areas under their own charge and are not allowed to come into headquarters without the permission of the Subdivisional Officer or the District Magistrate, as the case may be. There does not seem to be any necessity for the attendance of Circle Officers at District Board meetings. The Subdivisional Officers are normally members of the District Board, and it should be their duty to keep the Board informed about Union Boards' activities. If they have not the necessary knowledge they can obtain it from their Circle Officers before a meeting takes place. It follows from the above that there is no need to reserve a room for Circle Officers in the District Board office.

3. As regards the meetings of Local Boards, I am to say that Circle Officers should not ordinarily attend the meetings of any local body, of which they are not members. If in any special instance the Chairman of the Local Board desires the assistance of a Circle Officer at a meeting, he should apply to the Subdivisional Officer who will direct the Circle Officer to attend if he considers his presence at the meeting necessary or desirable.

4. Circle Officers should not ordinarily send in reports to the District Board direct unless they wish to notify some occurrence, e.g., an outbreak of disease or a natural calamity requiring immediate action by the District Board. In such cases a copy of the message should be sent to the Subdivisional Officer.

5. I am to add that subject to the above conditions the District Magistrate should see that no information of any real importance about a Union Board, which is supplied by a Circle Officer, fails to reach the Chairman of the District Board. This may be ensured by making Subdivisional Officers responsible for supplying the Chairman with necessary extracts from Circle Officers' reports or inspection notes. Circle Officers, who come to the district headquarters, should call on the Chairman to discuss matters of village self-government, and should make a point of meeting him when he tours in their circles if their company is likely to be acceptable.

## Desirability of transferring pounds to Union Boards.

*Ben., L. S.-G., No. 142T—M. of 8-5-1928, to Commr., Rajshahi.  
(Copy to other Commrs.)*

I am directed to refer to your No. 2905M., dated the 4th October 1927, on the subject of the desirability of transferring pounds to Union Boards. The Bogra, Rajshahi and Rangpur District Boards are not prepared to forego the pound income unless equivalent charges for education are placed on Union Boards or unless Government make grants equal to the pound income. The Bogra District Board asks for a declaration of the policy of Government on the subject.

2. Endeavours have been made to trace any declaration of policy that has been made in the past but without result. It seems to have been assumed from the time that the Village Self-Government Act came into operation that the management and income of pounds would be transferred to Union Boards in accordance with the policy already adopted in respect of Union Committees.

3. In circular Nos. 465-73L S.-G., dated the 25th August 1919, Divisional Commissioners were told that in submitting proposals for the formation of Union Boards they should report *inter alia* whether there is any pound in the proposed Union and whether it should be transferred to the Union Board. Hitherto Commissioners have invariably reported in favour of transfer and when Union Boards are actually formed the management and income of pounds has been transferred to them as a matter of course. This policy is implied in the wording of paragraph 2 and paragraph 3 (f) of the important circular Nos. 322-26T.—L. S.-G., dated the 20th June 1922, grants to union boards. In 16 districts, including Bogra and Rajshahi, there has been a wholesale transfer of pounds to Union Boards.

4. As regards the cost of primary education, there can at the present time be no question of allotting the income from a particular source to expenditure on a specified activity. What happened in the past was that Government imposed a new duty on District Boards and gave them extra funds to meet the cost of discharging it. For convenience the Government subsidy took the form of the income from pounds and ferries together with an equilibrium grant. The equilibrium grant was an important feature of the system as it prevented District Boards from being solely dependent on a variable source of income for such an important activity as primary education. The situation has changed since the public works cess was made over to District Boards and the old arrangements no longer hold good.

5. As remarked by you the transfer of pounds and ferries within a Union to a Union Board tends to make the management more effective and the income to increase, and it is desirable that the receipts from the pounds should also be transferred along with the management.

6. It is necessary, however, to face the fact that the creation of Union Boards involves fresh calls on the district fund. District Boards are expected not only to sacrifice the income from pounds and small ferries but to make grants to Union Boards. The question must be looked at from the standpoint of the interests of the rural people as a whole. In the interval between cess revaluations the union rate levied under section 37 (b) of the Village Self-Government Act is almost the

only means of making increased calls on local resources to supply the needs of the villagers. A judicious policy of grants-in-aid should have the effect of stimulating union boards to find the money for local works of improvement.

7. This, however, means that expenditure from the district fund under some other head has to be curtailed. The rural people need not, however, suffer on that account. The following is an illustrative example of what can be done:—

Take the question of primary education. A District Board spends Rs. 50,000 a year from the district fund on this object. The income from pounds is Rs. 25,000. Union Boards are formed throughout the district and the pound income is made over to them, thus leaving the District Board Rs. 25,000 a year less to spend. The sum of Rs. 25,000 is distributed to Union Boards in the form of grants for primary education on the understanding that they raise an equal amount for that purpose by taxation under section 37 (b). The result is that the same total sum is available for primary education while the Union Boards have also the income of the pounds to spend on this or on other activities. There is thus a net increase of Rs. 25,000 to be spent for the benefit of the village population. This aspect of the question under consideration may be brought to the notice of the District Boards concerned.

**Cost of remittance of fee realized by union court to the treasury to be met from the union fund.**

*Ben., L.S.-G., Cir. Nos. 940-944 L.S.-G., of 19-2-1937, to Comms.*

I am directed to invite your attention to the proviso to section 90 of the Bengal Village Self-Government Act, 1919, which provides that when a suit instituted in a union court, is transferred to a civil court under section 74, the fee realized in advance by the union court should be paid from the union fund to the Local Government. This proviso read with the provisions of section 46(2) makes it clear that the cost of remitting the fee in such cases to the treasury should be paid out of the respective union fund.

2. It has, however, been brought to the notice of Government that the presidents of certain union courts have been deducting the cost of remitting the fees before sending these fees to the treasury. As this practice is clearly against the provisions of the Act, I am to request that you will be so good as to inform the union boards in your division that the cost of remission of the institution fee in cases transferred under section 74 from a union court to a civil court should be met from the union fund.

*Memo. Nos. 945-946 L.S.-G., of the 19th February 1937.*

Copy forwarded to the Judicial and Revenue Departments of this Government for information.

**Discontinuance of the free distribution of the Bengali edition of the Bengal Village Self-Government Act, 1919, to union boards.**

*Ben., L.S.-G., Cir. Nos. 1204-1208 L.S.-G. of 6-3-1937, to Commrs.*

I am directed to say that the Bengal Village Self-Government Act, 1919, as modified up to the 1st August 1935, has been translated into Bengali and that copies of the translation, which have been priced at annas four per copy, have been kept for sale at the Publication Branch of the Bengal Government Press, Alipore. The Government of Bengal are of opinion that the union boards can easily purchase copies of the Bengali translation of the Act, at the price fixed and they do not, therefore, propose to distribute copies of the translation free of cost to the union boards. I am to request that the union boards in your division may be informed accordingly and advised to purchase copies of the translation, enquired by them, direct from the Superintendent, Bengal Government Press.

*Memo. No. 1209 L.S.-G. of the 6th March 1937.*

Copy forwarded to the Superintendent, Bengal Government Press, for information.

**Union Committees.**

**Boundaries of the Union Committee to be coterminous with those of the Chaukidari Union.**

*Ben., Mun. (L.S.-G.), Cir. No. 6 L.S.-G. of 19-2-1917.*

I am directed to say that a case has been brought to the notice of Government in which a Union constituted under section 38 of the Local Self-Government Act (B.C. III of 1885) and a Chaukidari Union were originally coterminous and the boundaries of the Chaukidari Union were subsequently altered thus necessitating the revision of the boundaries of the area under the Union Committee so as to make them coincide with those of the Chaukidari Union.

2. Government have frequently emphasised the principle that the boundaries of new Union Committees should ordinarily coincide with those of one or more Chaukidari Unions with a view to the ultimate fusion of the Union Committees and Chaukidari Panchayats contemplated by the District Administration Committee. At present, however, there is nothing to prevent the modification of the boundaries of a Chaukidari Union by the executive orders of the District Magistrate under section 4 of the Village Chaukidari Act (Act VI of 1870 B.C.) subsequent to the formation, under the Local Self-Government Act, of a Union with the same boundaries. In this event the boundaries of the Union Committee can only be brought into relation with those of the Chaukidari Union by a fresh notification under section 38 of the Local Self-Government Act.

3. It is undesirable that the boundaries of a Union Committee should be liable to occasional change in this manner, and I am accordingly to request that you will instruct all District Magistrates in your division that when a Union under the Local Self-Government Act has been constituted with boundaries conterminous with those of a Chaukidari Union, the latter should only be modified for special reasons. Should such modification be unavoidable, steps should be taken at the same time to move Government to have the boundaries of the Union under the Local Self-Government Act revised accordingly.

## Veterinary Work.

### Veterinary work in District Board areas.

*Ben., L.S.-G., No. 397T.—L.S.-G., of 2-10-1922, to Commr., Burdwan.*

I am directed to refer to your letter No. 1529L.S.-G., dated the 21st May 1922, to the Secretary to the Government of Bengal, Agriculture Department, in which you refer to the difficulty explained by District Boards in meeting the cost of Anti-rinderpest Serum, which is required for inoculating cattle in the mufassal, and suggest that the question of financing veterinary work in the villages may be considered by Government, and that if no assistance from Provincial funds be available, the question of permitting District Boards to levy a fee on villagers for inoculating their cattle may be reconsidered by Government.

2. In reply, I am to say that the present financial position of Government precludes them from making any grants to District Boards towards the cost of veterinary work in the mufassal. The primary object of inoculation of cattle is to render them immune from rinderpest, and thereby to reduce mortality among the cattle. It cannot be denied therefore that inoculation of cattle with Anti-rinderpest Serum tends directly towards the improvement of agriculture in mufassal areas, and as such the promotion of veterinary work in the villages is obviously a matter with which local bodies are directly concerned. Under clause 3 (a) of section 100 of the Local Self-Government Act, it is lawful for a District Board to establish and maintain veterinary dispensaries for the reception and treatment of horses, cattle and other animals, and under clause 3 (d) of the same section District Boards may legitimately make grants in aid of measures for improving agriculture, or for carrying out any of the objects specified in clause 3 (a). District Boards have hitherto not failed to recognise their responsibilities in this direction, and have, in most cases, employed trained veterinary assistants for the prevention and treatment of diseases of cattle. It is desirable that they should also make suitable grants for the purchase of serum and other appliances, which are necessary for inoculation so that veterinary work in the mufassal may not receive a set back. It is well-known that the revenues of most of the District Boards are inadequate, but at the same time, it should be observed that the purchase of serum will not be heavy additional burden on their finance.

3. As regards your proposal that District Boards should be permitted to levy a fee for inoculating cattle in villages, I am to point out that it is as objectionable as it is illegal. Under clause 3 (a) of section 100 of the Local Self-Government Act, District Boards may only charge such fees for the use of veterinary dispensaries established by them as may be approved by the Commissioner, and there is no provision in the Act which authorises them to levy a fee for inoculation performed by veterinary assistants in villages. Apart from this, it would be inadvisable for District Boards to charge fees from raiyats for inoculation of their cattle. The value of inoculation for rinderpest has not yet come to be generally appreciated, and the Veterinary Department are still doing pioneer work. Any demand for payment at this stage will mean a set back to the progress of inoculation. The analogy with vaccination does not hold good, as in any case, its value is now well-known and villagers are willing to pay, when fees are charged. District Boards nevertheless in most cases are now eager to introduce free vaccination within their areas.

4. I am to request that District Boards in your division may be asked to reconsider the whole question in the light of the above facts.

## Works.

### Inspection of works carried out by Municipalities by means of loans from Government.

*Beng. Mun., Cir. No. 9T.M. of 13-5-1904, to Commr.*

The attention of the Lieutenant-Governor has been drawn to the anomaly which at present exists, in the matter of the inspection of works carried out by means of loans from Government, by reasons of the absence of orders enjoining by what officers each such inspection should be made. Supervision in these cases is sometimes exercised by the Inspector of Works, at others by the Superintending Engineer or Executive Engineer, and in certain cases by the Sanitary Engineer. In order to systematise by procedure it has been considered desirable to lay down specific rules on the subject.

2. The Lieutenant-Governor is accordingly pleased, in exercise of the authority vested in him by rule 11 of the rules promulgated by the Government of India in Finance and Commerce Department's Notification No. 15, dated the 1st January 1889, for the grant of loans to Local authorities by Government, to authorise the officers named below to inspect the municipal works specified in each case, which have been constructed from loan funds, and the accounts connected therewith:—

- (1) In the case of all major works (i.e., works costing over Rs. 5,000\* each) except electrical works,—the Sanitary Engineer, Bengal;
- (2) in the case of all minor works (i.e., works costing up to Rs. 5,000\* each) except electrical works,—the Superintending, or the Executive Engineer, or the Inspector of Works; and

\*The limit of Rs. 2,500 was raised to Rs. 5,000 in India Government, Public Works Department, No. 1—A.-G., dated the 6th January 1909. See also Bengal Government, Municipal Circular No. 11M., dated the 27th February 1909, to Commissioners.

(3) in the case of all electrical works,—the Electrical Engineer, Bengal.

3. Nearly all the public works undertaken by Municipalities are sanitary works, over which, by virtue of his functions, the best supervision can be exercised by the Sanitary Engineer. That officer being a Superintending Engineer, is similarly quite qualified to supervise other municipal works that are not connected with sanitation, with the exception only of electrical works. If in any special case it may be necessary that a major work, other than electrical, should be supervised by a Superintending or Executive Engineer, or an Inspector of Works, the case should be submitted for the orders of Government.

4. I am to request that these instructions may be communicated to the Municipalities in your Division.

**Carrying out by Local Authorities of works of which the cost is debitable to Loan Funds.**

*India, F.C. No. 2934A. of 12-5-1904, Ben., Mun., (Mun.), Cir. No. 13TM. of 1-6-1901, to Comms.*

The attention of the Government of India has recently been drawn to the fact that Local Authorities sometimes undertake the construction of works, forming an integral part of schemes involving large expenditure from loan funds, without first obtaining the approval of the authority, competent to sanction the schemes as a whole, and without making definite provision for financing the complete project. It is manifest that this practice is inconsistent with sound principles of finance, inasmuch as the Local Authority may thereby be committed to large expenditure from borrowed funds, without any previous consideration whether its resources are adequate for the purpose. It may thus either be compelled to borrow beyond its means or to abandon the works in an incomplete state.

2. In order to put a stop to this irregularity wherever it may prevail, the following instructions have been drawn up: and I am to request that, with the permission of His Honour the Lieutenant-Governor, they may be communicated to all Local Authorities in Bengal, and their observance strictly enforced in future. Whenever it is proposed to carry out any work, of which the cost in whole or in part is debitable to Loan funds—

- (1) An estimate of the cost of the entire scheme should be prepared and submitted for such sanction as is required by law.
- (2) A programme of construction should be drawn up, showing the sums which will probably be required year by year until the work has been carried to completion.
- (3) The application for the loan should cover the entire cost of the project (or so much of the cost as it is proposed to meet from borrowed funds), and it should show the year in which each instalment is to be raised.

- (4) No expenditure should be incurred on the work until the loan for the entire project has been duly sanctioned, and the approval of the authority competent to sanction the plans and estimates has been obtained.

## Works of public utility—(See also Donations and Endowments).

**Annual statement of Municipalities in which it is proposed to ask for the aid of the Public Works Department officers for execution of works of public utility.**

*India, P. W. Res. No. 473 A.G., of 17-11-1880, to Ben., P. W.*

The Government of India has recently had under consideration the question—

- (1) as to whether the detail in which the budget estimates of expenditure on public works from Excluded Local Funds are at present rendered may not be dispensed with, and a simple form of abstract estimate substituted, showing the transaction by Public Works officers only, in connection with all funds classed as excluded, and
- (2) whether the submission of municipal budget estimates prescribed in Public Works Department Circular No. 54 of 1869, embracing the transactions by Civil as well as by Public Works officers, may not be discontinued.

2. It has been decided that the incorporation in the estimate submitted to the Government of India in the Public Works Department by Local Governments and Administrations of the transactions of Excluded Local Funds by Civil officers is not necessary. All that is needed is a record of the operations of the Public Works Department, and with this view the Government of India has been pleased to prescribe the accompanying form of abstract estimate for adoption, commencing with the estimates of the ensuing official year.

3. The transactions of Public Works officers appertaining to Municipal Funds will find place in the abstract budget estimate above prescribed. Under the operation of this order, Public Works Department Circular No. 54 of 1869 may be considered as cancelled.

*Ben., P. W. Memo. No. 1279A. of 14-12-1880, to Mun.*

Copy of the above [Order No. 1544] forwarded to the Secretary to the Government of Bengal, Municipal Department, for information, with a request that, with reference to paragraph 3 of the orders of the Government of India, the Secretary in the Municipal Department of this Government will be good enough to furnish this office with



sufficient particulars of transactions, if any, in which Public Works officers are concerned, to enable this Department to make the necessary entries in the budget.

*Ben., Mun., Cir. No. 18 of 29-12-1880 to Comms.*

Copy of the above [Order No. 1544] forwarded to the Commissioner of the Division, with the request that he will be good enough to submit a statement showing the names of Municipalities in his division in which it is proposed to ask for the aid of officers of the Public Works Department for the execution of works of public utility, and the amount estimated to be spent on such works during the years 1880-81 and 1881-82.

*Ben., Mun., No. 333 and Cir. No. 4 of 15-4-1881, to Comms.*

It was afterwards directed that the statement should be submitted annually.

*Mun., Cir. No. 16 of 29-12-1882, to Comms.*

It was further ordered that the statement should be submitted by 30th November each year.

*Ben., Mun., Cir. No. 1 T.M. of 9-5-1883, to Comms.*

In continuation of Government Circular No. 16, dated 29th December last, I am directed to request that only such works as are intended to be entirely carried out by officers of the Public Works Department, i.e., works for which Municipalities deposit the necessary funds, and the expenditure on which will pass through the accounts of the Public Works Department, may be entered in the annual statement submitted by you, showing the Municipalities in your division, in which it is proposed to ask for the services of officers of the Public Works Department, for the execution of works of public utility. Works for which only the aid and advice of Public Works officers are required need not be entered in future statements.

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